United States Court of Appeals for the Second Circuit



APPENDIX

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75-7010 74-2657 74-2614

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellant-Appellee

against

GEON INDUSTRIES, INC., et al.,

GEON INDUSTRIES, INC. and GEORGE O. NEUWITH,

Defendants-Appellants

FRANK BLOOM and __WARDS & HANLY,

Defendant-Appellees



On Appeal from the United States District Court for the Southern District of New York

APPENDIX OF APPELLANT SECURITIES AND EXCHANGE COMMISSION

VOLUME III

TRANSCRIPTS

Pages 219 - 447

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*Two exhibits were marked for identification as Edwards & Hanly exhibit A. (638, 698) No exhibit was marked as Edwards & Hanly exhibit E.

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SECURITIES AND EXCHANGE COMMISSION

v.

GEON CORP, et al.

June 19, 1974, 10 A.M.

(In open court.)

THE COURT: You may proceed, Mr. Drake.

GEORGE NEUWIRTH, called as a witness, having been previously sworn, testified further as follows:

DIRECT EXAMINATION (Continued)

BY MR. DRAKE:

Mr. Neuwirth, here is your diary, sir, Exhibit 12 marked for identification (handing). I would like for you now to focus your attention on the days that immediately preceded your going to London.

PDid you have any discussions with a Mr. Marvin Rauch?

THE COURT: The question is, before you went to London around October 15th did you have a discussion with a Mr. Marvin Rauch.

A Mr. Marvin Rauch called me on the telephone rather frequently. I had no discussion with him in person.

Q Ntelephone conversation?

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1	mh2	Neuwirth-direct
2	A	Telephone conversation, yes.
3	Q	Do you remember a telephone conversation with
4	Mr. Rauch	prior to your departure for London concerning
5	the Coene	en report?
6		THE COURT: Concerning the what?
7		MR. DRAKE: The Coenen report.
8	A	I do remember that.
9	Q	What did Mr. Rauch ask you, sir?
10	A	He told me he heard that somebody has made a study
11	of Geon,	and is about, or, has issued a write-up.
12		THE COURT: Issued a what?
13		THE WITNESS: Issued a write-up of the company.
14	Q	What did you tell Mr. Rauchin response to that?
15	A	I told Mr. Rauch that it's Coenen & Company who
16	did it.	
17	Q	Did you tell him the individual's name at Coenen
18	& Company	?
19	A	I believe I did.
20	Q	Who was that individual, sir?
21	A	That was Mark Boyer.
22	Q	This is the same Mr. Boyer that you had luncheon
23	with back	in July of 1973?
24		MR. STRUM: Objection, your Honor.
25		MR. DRAKE: I believe there was testimony to that

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mh3

Neuwirth-direct

effect in the record yesterday, your Honor.

MR. STRUM: There is no testimony in the record about a --

THE COURT: He said he had a meeting with Mark Boyer on July 27, 1973. That is my recollection. My notes indicate that.

MR. STRUM: I quarrel with "luncheon", your Honor.

I think there was testimony about a meeting.

THE COURT: He said he had a meeting, all right.

This is the same Mark Boyer that you told us about yesterday;
is that correct?

THE WITNESS: Your Honor, I thought at the same time that he visited the other company, Intercorp, and I had not been there.

- Q How long were you in England, Mr. Neuwirth?
- A Two weeks.
- Q I believe you stated you departed on the 15th of October?
 - A The 15th I left New York, the 15th of October.
- Q While you were in England did you have a conversation with the Burmahpeople?
 - A No, sir.
 - Q Did you meet anyone related to Burmah?
 - A While I was in England?

Is this where Burmah's offices are located?

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Q

The original transcript did not contain a page numbered 223.

Neuwirth-direct

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A Yes, sir.

Q Who was there besides Mr. Simonis for Burmah?

A I do not recall the name of any one individual.

Q But there were other people?

A There were other people.

THE COURT: How many were there from Burmah would you say?

THE WITNESS: That was at a -- I met Mr. Simonis with my company alone, then we were invited in the executive dining room, and there were a number of directors. I do not know the name of any one of them.

Q Do you recall what was discussed?

THE COURT: Are you talking now about the meeting he had with Mr. Simonis, or when he was in the executive dining room, or both?

MR. DRAKE: Well, your Honor, I am trying to --

Q Let's say your meeting with Mr. Simonis.

A Our meeting with Mr. Simonis was before lunch of very short -- it lasted a very short time, perhaps 10 to 12, most 15 minutes.

Q Well, what did you--

THE COURT: What did you talk about at that meeting?

THE WITNESS: It was getting introduced. How was

your trip. We have to build a golf course out at our main

1	mh6 Neuwirth-direct
2	office in whichwe just moved in. Chit chat.
3	Q Did you discuss business?
4	A No.
5	Q You say you subsequently had lunch with Mr.
6	Simonis and others?
7	A We had drinks first, which lasted a certain time.
8	It's an English ritual.
9	THE COURT: Not only English, is it.
10	THE WITNESS: In executive dining rooms I would
11	say that the English put a particular emphasis on those
12	drinks.
13	And after that we sat down at the table.
14	THE COURT: How big a table? How many of you
15	were at this table?
16	THE WITNESS: Oh, I would say I remember one
17	man was there who was the personnel manager. The director
18	of personnel. The others, not the vaguest idea of who they
19	were. Perhaps on Burmah's side I would guess five people.
20	Q Did you partake in the discussions?
21	THE COURT: Well, let me ask, when you were sitting
22	around the table at lunch what did you talk about at luncheon
23	THE WITNESS: About the lovely new building we
24	just moved in. About the
25	THE COURT: Did you talk anything about business?

The original transcript did not contain a page numbered 226.

1	mh7 Neuwirth-direct
2	THE WITNESS: Absolutely no.
3	THE COURT: Nothing about business?
4	THE WITNESS: No.
5	BY MR. DRAKE:
6	Q You say you didn't talk about business at that
7	luncheon at all?
8	A No. sir.
9	Q Did anybody talk about business at that luncheon?
10	A No.
11	Q Were there subsequent meetings after that luncheon
12	A There was a meeting of yes, we met with Mr.
13	Simonis after the lunch.
14	Q All right. Now, when did you meet with him after
15	the lunch?
16	A After the lunch I requested Mr. Simonis to give
17	me a private room because I would like to discuss something
18	with my friends.
19	THE COURT: Your friends being the other Geon
20	people?
21	THE WITNESS: The Geon people.
22	THE COURT: Peter Neuwirth and
23	THE WITNESS: Peter and Bloom.

Did you have a discussion with Peter and Mr.

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Bloom?

- A Yes, we did.

 Q What did you talk about?
 - A We talked about the following: We were contemplating a visit next day to another very major company who have shown interest in talking to us regarding the possibility of an acquisition, and my conversation with my men was, should we tell it to Mr. Simonis or shouldn't we?
 - Q Did you decide to tell him?
 - A We decided not to tell him.

THE COURT: Why did you decide that? You had not talked to these fellows about any business matters, had you?

THE WITNESS: We did not, your Honor.

THE COURT: But you still thought you didn't want to tell them you were going to see this other outfit the next day?

THE WITNESS: Your Honor, I took a great -- I'm a little old fashioned, and I didn't want to play up one party against the other. Although it is a common behavior in England to negotiate with two or three parties in a similar situation.

- Q Well, did you subsequently meet again that day with Mr. Simonis and other representatives of Geon?
- A After I met with my people we did meet with Simonis.

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A No, sir.

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Were there any more meetings with Burmah--Q

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A No, sir.

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Why did your son Peter Neuwirth and Frank Bloom Q

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go to England?

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Why did you ask them to come, sir?

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I asked them to come.

How can one man like me, as experienced I may be I have the privilege of age, make solo judgment without those people who are actually involved in the business? London, New York --

THE COURT: Well, is it fair to say that you asked them to come -- I think this is what he is asking -- you asked them to come over so that when you went off to Swindon and saw Burmah you had somebody with you who was actually in the management of the company?

THE WITNESS: Absolutely. Yes, your Honor.

THE COURT: That was your purpose in bringing them

THE WITNESS: That was my only purpose.

THE COURT: To talk to and to see the Burmah people?

THE WITNESS: Yes, your Honor.

THE COURT: All right.

BY MR. DRAKE:

over?

All right, sir. Now, while you were in England did you have any further meetings with Burmah at all, or with representatives of Burmah?

Not at all.

	232
1	mh12 Neuwirth-direct
2	Q Was there any timetable mentioned at the London
3	meetings concerning when you were going to get together
4	again?
5	A No, Mr. Drake.
6	Q Was there any discussion of future discussions?
7	A No, Mr. Drake.
8	THE COURT: You just said Mr. Simonis, it's a nice
9	lunch, and it was nice to talk to you, goodbye; is that what
10	you
11	THE WITNESS: He took us to my car and, in the
12	parking lot as a gesture of courtesy, he wished us a nice
13	journey back home, and that was the end of the meeting.
14	Q Was there any discussion to exchange further
15	papers or documents?
16	A No, sir. Not with Mr. Simonis.
17	Q What about with anyone else?
18	A In London?
19	Q Yes, sir.
20	A No, sir. Nobody.
21 22	Q When did you return to the United States?
23	A I returned, I believe October 31st.
24	Q When you returned on October 31st do you recall
25	a phone conversation from Mr. Rauch the first week of November?
20	A Mr. Drake, Mr. Rauch has acquired a bad habit. He

	233
1	mh13 Neuwirth-direct
2	kept on calling me very frequently until at one time
3	later on I had to tell him, Marvin, these telephone calls
4	have to stop.
5	Q All right. Well, who
6	THE COURT: I think the question is, when you got
7	back around the 31st did you get a telephone call from Mr.
8	Rauch.
9	THE WITNESS: Your Honor, the man called me at
10	least twice a week.
11	THE COURT: But he didn't call you while you were
12	in England, and the question is
13	THE WITNESS: He didn't
14	THE COURT: You got back on the 31st. Your answer
15	is, yes, he undoubtedly did call you because he called you
16	twice a week.
17	THE WITNESS: He called me at least twice a week.
18	THE COURT: All right.
19	Q Who is Mr. Rauch, please?
20	A Who was he?
21	Q Who is Mr. Rauch, yes.
22	A Mr. Rauch is a broker, a customer's man in a
23	brokerage house.
24	Q Do you know which house, sir?
25	A When I met him for the first time he was in a

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2 11	OI	August	OI	19/3?

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Q Yes, sir.

'73?

A Mr. Drake, I believe he moved there earlier than that.

Q But it was somewhere in the summer of 1973, just for --

A I'm unable to tell you.

Q Did you know that Mr. Rauch was a shareholder of Geon?

A At which time, sir?

Q Let's say in --

THE COURT: At any time. At any time.

A I knew it that he was -- whether he himself was a shareholder I didn't know.

Q Well, did you know if his customers owned shares of Geon?

A He told me he was actively engaged in selling Geon stock.

THE COURT: In selling Geon stock?

THE WITNESS: To his customers.

THE COURT: All right.

Q Was any figure mentioned, any numbers?

A Never.

	236
1	mhl6 Neuwirth-direct
2	Q Did you know if it was a large number of shares
3	or two or three, or what, sir?
4	A Mr. Drake, I don't know.
5	Q When did Mr. Rauch tell you that he was engaged
6	in selling Geon stock?
7	A I believe that I met him the very first time he
8	already said, I am very interested in your company, I
9	bought stock when you did business with Neuberger Loeb, who
10	was our first underwriter, and to me Mr. Rauch was an
11	insignificant person, I didn't really note carefully whatever
12	he may have said.
13	Q Did you meet him again in person after this
14	A I believe at the second stockholders' meeting,
15	which must have been like '71. I believe.
16	Q Do you recall any discussions you had with him then?
17	A No.
18	Q Did you meet him any other times in person, sir.
19	Let's say prior to July of 1973?
20	A I have never met in person outside of these two
21	times, I have never met him in person.
22	Q You mean even to date?
23	A No. You asked me
24	Q Oh, up to July of 1973?
25	A July, '73.

1	mh17 Neuwir th-direct
2	Q All right, sir.
3	Going back, sir, to somewhere around the first
4	week of November, do you recall making an appointment with
5	Mr. Rauch for lunch?
6	A Didn't happen exactly like that.
7	THE COURT: This was November, 1973?
8	MR. DRAKE: Yes, your Honor.
9	THE COURT: All right.
0	A He kept on calling me and insisting that he is
11	now working not too far from us, he would very much ap-
12	preciate it if he could have lunch with me. You know.
13	In a very insistent manner and fashion.
14	Q In this phone conversation did he call up and
15	ask about the effect of the energy crisis on Geon?
16	A I have no recollection of Mr many people
17	asked me that.
18	Q You say you have no recollection of any conversa-
19	tion on the telephone between yourself and Mr. Rauch con-
20	cerning the effect of the energy crisis on
21	A I do not remember.
22	Q on Geon?
23	A I do not remember.
24	Q All right, sir.

MR. DRAKE: Would you mark this for identification,

Neuwirth-direct

(SEC Exhibit 14 marked for identification.)

THE COURT: Do you have any objection, Mr. Strum?

MR. STRUM: I have no objection.

THE COURT: All right, it may be received in

(SEC Exhibit 14 received in evidence.)

Mr. Neuwirth, let me give you, sir, SEC Exhibit No. 14 which consists on the top part of what purports to be a two-page press release of Geon Industries dated November 9, 1973, and the accompanying report to shareholders for the nine months ending September 30, 1973, which I believe is dated under your signature November 15, 1973

Do you recall these going out, sir?

- Yes, I do.
- Does Geon normally issue third quarter reports to shareholders?
 - Yes, it does.
 - Does it issue quarterly share --
 - Quarties, yes.

MR. DRAKE: I just want to let the record reflect, your Honor, this press release and accompanying report to

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Were those figures audited or unaudited? 0 MR. STRUM: Your Honor, I object.

THE COURT: Well, I think if he knows he can answer that.

MR. STRUM: It is in evidence, your Honor.

The fact that they are unaudited is stated right on the exhibit that has been received in evidence.

THE COURT: All right. These are interim figures,

I take it, they are company figures; is that right?

THE WITNESS: Yes, sir.

THE COURT: Company figures.

MR. STRUM: Your Honor, I am in error. It does not say on the exhibit whether audited or unaudited.

THE COURT: Well, he said they are company fig as and I understand these companies, the quarterly reports are company figures and the audit comes once a year on the annual statement?

THE WITNESS: That's correct, your Honor.

THE COURT: Even I know that. All right, proceed.

MR. DRAKE: Well, your Honor, the point I think we wish to make is that these documents reflect these figures for nine months ending, and that neither of these documents reflect whether the figures reported are audited or unaudited.

THE COURT: That's all right. I have never seen a company statement that did as a matter of fact. I have seen

1	mh21 Neuwirth-direct
2	a lot of interim statements, and they are just a company
3	statement, they don't say they are audited or unaudited,
4	and he says they are company figure.
5	BY MR. DRAKE:
6	Q. Mr. Neuwirth, on or about November 14, 1973,
7	did you have an analysts' luncheon that day, sir?
8	A I did.
9	Q Do you recall with whomyou met?
10	A I do not recall the names of the analysts.
11	Q Do you recall where it was?
12	A Yes.
13	Q Where was it, sir?
14	A At Laurent on 56th Street.
15	Q Can you tell me what was discussed at that luncheor
16	sir?
17	A These lunches are usually question and answer
18	sessions. The analysts ask the questions and Frank Bloom
19	answers them.
20	Q Were there any discussions of the
21	THE COURT: Well, let me ask you this: Don't you,
22	when you get these analysts, do you just sit there and say,
23	any questions? Or does somebody give a statement as to what
24	the
25	THE WITNESS: If it's a subject pertaining to

	242
1	mh22 Neuwirth-direct
2	figures, then Mr. Bloom will answer them automatically.
3	THE COURT: No, that isn't what I asked you.
4	THE WITNESS: I will partake in the conversation.
5	THE COURT: Don't you give the philosophy of the
6	company?
7	THE WITNESS: Yes, I will. So then they ask me,
8	how is business
9	THE COURT: And you give the philosophy; is that
10	right?
11	THE WITNESS: That's correct.
12	THE COURT: And you tell them what your figures
13	show.
14	THE WITNESS: Even that is always done by Mr. Bloom.
15	THE COURT: You don't do that?
16	THE WITNESS: No.
17	THE COURT: All right.
18	BY MR. DRAKE:
19	Q Was any mention made at this meeting of the dis-
20	cussions with Burmah?
21	A No.
22	0 77-3 1-3 11

Q Had you had any discussions with anyone up until November 14, 1973, about the discussions with Burmah? MR. STRUM: I object; your Honor. I don't know what anyone means.

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Neuwirth-direct

THE COURT: Well, I think I understand the question he is asking. Let's see if we can put it this way: You got back to the United States October 31st and you had this analysts' meeting on November 14th. During that period did you tell anyone that you had been talking to Burmah Oil Company?

THE WITNESS: No, sir.

THE COURT: All right.

Now sir, did you have a meeting on or about November 20, 1973, with the Burmah people?

- A Can I check on that?
- Q Yes, sir. Please do.
- A I have a blank in my diary.

THE COURT: So that doesn't help you.

THE WITNESS: The diary doesn't help me. I do not recall any meetings, and there are many meetings, Mr. Drake, particularly in reference to matters -- technical matters in which I did not participate.

- Q May I see your diary, please?
- A Certainly (handing).
- Q Sir, what does that entry in your diary say?
- A This was probably the dinner at the Athletic, the New York Athletic Club.
 - Q So it was somewhere around November 20th?

25

mh24 Neuwirth-direct

- A It says here November 20th.
- Q It says, "Dinner max"?
- A It says, "Dinner max".
- Q So this was the meeting at the New York Athletic Club; is that right?
 - A This was a dinner at the New York Athletic Club.
- Q Now just to put it in perspective, who was at this dinner?
- A It was Mr. Roberts. I believe that this was the dinner that they introduced to us Mr. Newland. I believe so. I cannot -- I believe so. Then again our three men, I think Mr. Pisciotta may have participated, I'm not sure of it, and I believe it was also a Mr. Keane. I am unfortunately unable.
 - Q What did you talk about at this dinner meeting?
- A If this was the dinner where Mr. Newland was introduced, he stated what his job will be in connection perhaps with us, and no salient subject stuck in my mind, Mr. Drake. I'm not trying to evade it, but I just cannot--
 - Q What was Mr. Newland's proposed role in this--
- A Mr. Newland lives in Quogue, Long Island, and he stays in the city the whole week, but every Friday he goes home. Our office is on his way home, and I think that at that stage it was somewhere at that time agreed upon that

1	mh25 Neuwirth-direct
2	on his way home on Fridays he would stop by for lunch.
3	Q Why were you introduced to Mr. Newland?
4	MR. STRUM: I object, your Honor.
5	THE COURT: Well, I think I have had all this.
6	As I understood it from Mr. Bloom Mr. Newland had joined
7	the Burmah group; is that correct?
8	THE WITNESS: That's correct, your Honor.
9	THE COURT: He had a job here and was going to
10	have something to do with the negotiations.
11	THE WITNESS: Yes, your Honor.
12	THE COURT: All right. That was what I understood.
13	Q What if anything did Mr. Newland say that his role
14	was going to be?
15	A Corporate development. His job was corporate
16	development.
17	Q Was this for Burmah?
18	A For Burmah, yes.
19	Q What did that encompass?
20	THE COURT: Well, he doesn't know what that encom-
21	passes.
22	MR. STRUM: I object.
23	Q Did he tell you what it encompassed?
24	A I had hardly any conversation with Mr. Newland.
25	I don't think I saw him more than four or five times.

1	Mn26 Neuwirth-direct
2	THE COURT: Well, let's not run off on that.
3	THE WITNESS: Mr. Bloom wou'd be the mah.
4	THE COURT: Mr. Neuwirth, this is the dinner
5	at the Athletic Club which you say was the first time you
6	saw Newland and Newland said he was interested in corporate
7	development. Did he tell you what corporate development?
8	THE WITNESS: He was engated in researching and
9	following up the development of Burmah's business in the
10	USA.
11	THE COURT: I suppose that would include things
12	like acquisitions; is that right?
13	THE WITNESS: I would assume so.
14	THE COURT: All right. Some way to get more business
15	in the USA.
16	THE WITNESS: Yes, sir, your Honor.
17	THE COURT: All right. That is what he said, that
18	is what you thought he said.
19	THE WITNESS: That's what I understood from the
20	conversation.
21	THE COURT: Very well.
22	BY MR. DRAKE:
23	Q Mr. Neuwirth, on Wednesday, November 21st, did
24	you have lunch on that day with Mr. Marvin Rauch?
25	A You probably know the date, yes.

1	mh27 Neuwirth-direct
2	Q Refresh your memory, sir.
3	A I did.
4	Q You did, sir?
5	A Yes.
6	Q Wherewas that luncheon, sir?
7	A That was at the North Shore Steak House which
8	is on Northern Boulevard in Great Neck, New York. That's
9	the town that I live.
10	Q Did you make reservations for that luncheon?
11	A No, sir.
12	Q Did Mr. Rauch?
13	A If he did I would have no knowledge of it.
14	Q But this meeting was scheduled some time prior to
15	the 21st?
16	A Yes, sir.
17	Q At this time you knew that he was a broker for
18	Edwards & Hanly; is that correct, sir?
19	A Yes, I knew that.
20	Q And you knew that his customers owned some shares
21	of Geon?
22	THE COURT: Well, I think he testified that he sold
23	Geon to his customers; is that right?
24	THE WITNESS: Right.
25	THE COURT: You knew that?

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	1	mh28	Neuwirth-direct	. 10
•	2		THE WITNESS: Yes.	
	3	Q V	Who was there at this luncheon?	
	4	A M	Mr. Rauch and myself.	•
	5	Q A	Anyone else?	
	6	A N	No, sir.	
b33	7	Q D	oid you meet him somewhere around 12:30?	
	8	A S	omewhere around that time.	
	9	Q W	There did you meet him at the restaurant? Did	đ
	10	you meet hi	m in the hallway or in the bar or in the di	ning
	11	room?		
	12	A I	arrived before him and I was sitting at the	bar.
)	13	Q Y	ou were sitting at the bar. Did he come into	the
	14	bar?		
	15	А н	e found me in the bar.	
	16	Q C	ould you just tell me what you said to him a	ınd
	17	what he said	d to you, sir?	
	18	A W	hat I said to him?	
	19	Q Ye	es.	
	20	TF	HE COURT: When? Do you mean when they were	
	21	sitting in t	the bar?	
	22	MF	R. DRAKE: When he first walked in.	
	23	Q Di	d you say, "Hello Marvin, hello, Mr. Rauch"	?
	24	TH	E COURT: Just tell us what happened when you	u saw
	25	him.		

	
1	mh29 Neuwirth-direct
2	A I think he ordered a drink and then he started
3	immediately on a conversation, and I said to him
4	THE COURT: Well, what was the conversation?
5	THE WITNESS: Your Honor, "How's business? What's
6	Geon? How are we?" This sort of thing.
7	THE COURT: "How much money are you making?"
8	THE WITNESS: Nosey questions.
9	THE COURT: Just broker's questions.
10	THE WITNESS: Broker's questions.
11	THE COURT: All right. He asked broker's questi
12	2 nd . that did

ons and what did you say?

THE WITNESS: I said, "I'd rather not talk at the bar, why don't we sit down at the table." I am known in that restaurant, and I knew that this bartender will -there was nobody else at the bar, and that the bartender will be standing right next to us and listen to the conversation, and probably interfere in it.

- Let me back up. Did you give him some brochures? Q
- No, sir. Yes, yes.
- What were these brochures related to, sir?
- At that time we issued a new brochure, very beautiful and colorful which described the program, sales program by the name which we named Ultra.
 - Did you give these brochures to him at the bar

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1	mh30 Neuwirth-direct
2	or while you were sitting at the table?
3	A I cannot recall. I would say at the table.
4	Q Was the table still in the bar or in the dining
5	room?
6	A Was the table in the bar?
7	Q Yes, sir.
8	A No.
9	Q You moved to a table in the dining room?
10	A Dining room.
11	Q What did you say in response to Mr. Rauch's
12	questions?
13	A It didn't happen that way.
14	THE COURT: Why don't you tell us what did happen?
15	You talked
16	THE WITNESS: We were sitting at the table, and
17	Mr. Rauch pulls out from his side pocket a whole col ection
18	of old beat up quarterly reports which one of them you just
19	showed me, these quarterly reports that we always have the
20	same format in our company. He had a whole collection.
21 22	They were rather used, if I may say so. And he started im-
23	mediately telling me, "George, I have always been a great
	supporter of Geon, and as you can see I always carry Geon
24	reports with me, and I sold some stock to all my customers
25	and to my family."

Neuwirth-direct

mh 31 1 That's the first time I heard that he sold stock 2 to his family. And generally speaking he was like complaining 3 and crying the stock wasn't doing well, we are not doing 4 well, and he appealed perhaps to my sense of sympathy, or 5 6 pity, or something like that. 7 Did you discuss the third quarter figures? 8 I don't knowwhether the third quarter statement was out at that time.

I thought you said that he had some of these quarterly reports.

Oh, he had them three years back. A

Oh, he didn't have the newest one them? Q

A Sir, I cannot tell you.

Q All right, sir.

But he had at least 10 or 12 going back three years. A Or two years, or five years, I don't know.

Q What did you say?

"Let's hope for better days." I was at this time already -- leery? Is that the word?

THE COURT: You were leery?

Leery because of his great insistence on this luncheon. And I was rather guarded in my conversation.

You went voluntarily to the luncheon, didn't you, Mr. Neuwirth?

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1	mh32 Neuwirth-direct
2	THE COURT: Yes, we have got that. We don't need
3	to get into that. He went there voluntarily, yes.
4	Q Did you ask Mr. Rauch what he owned the stock at,
5	sir?
6	THE COURT: What he what?
7	Q Did you ask Mr. Rauch what he owned his stock at?
8	THE COURT: What do you mean "own his stock at"?
9	What do you mean by that?
10	Q Did you ask Mr. Rauch what he hadpaid for his
11	stock of Geon?
12	A I do notrecall, sir.
13	Q Do you recall telling him to hold on to his stock
14	for 60 days?
15	A I emphatically do not recall any such statement.
16	Q Could you tell me what you talked about, sir?
17	MR. STRUM: I object.
18	THE COURT: I think he has been doing that for
19	some five or ten minutes. Talking about it. You said this
20	fellow was aggressive, you said nosey.
21	THE WITNESS: Nosey.
22	THE COURT: He wanted to know about the company,
23	why wasn't the company doing better.
24	THE WITNESS: Insidious. Insidious questions.
25	THE COURT: What did you say to him when he said

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Neuwirth-direct

he didn't think the company was doing well? Did you say, "It's going to do better"?

THE WITNESS: Let's hope for a better future, as I would say to anybody.

THE COURT: That's what you said.

THE WITNESS: I don't remember what I said, but this would be my logical answer.

BY MR. DRAKE:

Q Did you mention to him the third quarter results that went out on --

THE COURT: You asked that, and he doesn't remember. He said he had a lot of these statements and he pulled them out of his pocket and he doesn't remember whether the third quarterly statement was there or not. We have been all through that.

- Did you discuss the acquisition or possible negotiations: with Burmah?
 - A No, sir.
 - How long did the luncheon meeting last, sir?
- It was a very short meeting. Made it as short A as I could.

THE COURT: Well, how long is that?

THE WITNESS: 30 to 45 minutes.

THE COURT: You had to eat, didn't you, and you had

a drink first?

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THE WITNESS: I am not a lunch drinker, I had a very quick drink, tomato juice, and we sat down and I had to go back to my business, and so did he. It was a luncheon of 45 minutes.

You say you went first into the bar and you were sitting at the bar and you moved away from the bartender. Why didn't you want the hartender to listen?

MR. STRUM: Objection, your Honor.

THE COURT: I will sustain the objection to that. What is that brokerage firm that advertises these people in airplanes, "Everybody listens when Harris Upham talks"?

THE WITNESS: Yes.

THE COURT: You didn't want that to happen? THE WITNESS: E.F. Hutton.

THE COURT: E.F. Hutton, that's right.

Mr. Neuwirth, I want to call your attention to November 30, 1973, sir.

MR. STRUM: I'm sorry, I didn't hear the question. THE COURT: November 30, 1973. He is calling your attention to November 30, 1973.

Do you recall any conversations with Mr. Frank Bloom on the morning of November 30th? Well, let's say on November 30th, not just the morning. Relating to the

1	255
	mh35 Netwirth-direct
2	possibly that Geon should issue apress release?
3	A I do not recall that.
4	Q Do you know if Mr. Gromet called Mr. Bloom that
5	day concerning trading activity in June?
6	MR. STRUM: I object your Honor.
7	THE COURT: I think I will allow it to this extent:
8	Do you remember Mr. Bloom saying to you something about
9	Mr. Gromet calling on the stock activity of the stock on
10	the American Stock Exchange? Do you have any recollection
11	of that?
12	THE WITNESS: None whatsoever.
13	Q Were you consulted on Friday, November 30th,
14	about the issuance of a press release?
15	A No, I was not.
16	Q So on November 30th did you have any knowledge
17	that Geon was preparing a press release?
18	A Usually
19	THE COURT: No, don't tell us usually now. You
20	have got a specific question. Did you know they were going
21	to put out a press release?
22	THE WITNESS: I do not recall.
23	THE COURT: You have no recollection.
24	THE WITNESS: No recollection.
25	Q Did you call Marvin Rauch at his home on the

	4	and so you called him back?
	5	THE WITNESS: She rattled of a few names and
	6	Rauch was among them.
	7	THE COURT: All right.
	8	BY MR. DRAKE:
	9	Q Where did you get his home phone number, Mr.
	10	Neuwirth?
	11	A I looked it up in the Nassau telephone book.
	12	Q Was this Friday, do you recall? It was after hours
	13	after business hours?
	14	A I usually leave very frequently the office at
	15	3 o'clock. I called him after business hours.
	16	Q Did you think he had something urgent to tell you?
	17	THE COURT: Now wait a minute. I don't know,
b34	18	"Did you think he had something urgent to tell you?" No.
	19	I don't see that. Go ahead, you called him, you looked up
	20	his number and you called this aggressive broker that you
	21	had lunch with, and what happened? What did you say to him
	22	and what did he say to you?
	23	THE WITNESS: Your Honor, I have not the faintest
	24	recollection.
	25	THE COURT: You could have talked about anything?
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Neuwirth-direct

THE COURT: So your secretary said Rauch called

call. I am an old fashioned man --

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THE WITNESS: I just --

THE COURT: You could have talked about Burmah.

THE WITNESS: I didn't talk about Burmah. To me--

THE COURT: Well, you say you don't know what you talked about.

THE WITNESS: Certainly not about a taboo subject such as Burmah.

THE COURT: That was a taboo subject?

THE WITNESS: I would never disclose it.

THE COURT: But you don't remember what you talked

THE WITNESS: I really don't remember.

THE COURT: All right.

BY MR. DRAKE:

about?

Did you say anything like, Marvin, I owe it to you, I have got to tell you that we have got a press release coming out Monday that's going to announce the Burmah negotiations?

I didn't owe the man anything. I didn't feel any sense of obligation to Mr. Rauch.

- You don't recall saying anything to that effect?
- A I don't recall.
- Do you recall in substance telling him that Geon Q was going to put a press release out on Monday?

1	mh39 Neuwirth-direct
2	A Chances are I didn't know about it.
3	Q I'm sorry, sir.
4	THE COURT: No, that isn't an answer. Can you say
5	yes or no or you don't recall.
6	A No, no, I really don't recall. And I have a
7	tendency rather to change that to no.
8	Q Well, Geon did put out a press release on Monday
9	morning; is that correct, sir?
10	A Can I see it?
11	Q Yes, sir. That is SEC Exhibit No. 1 (handing).
12	A Thank you.
13	THE COURT: You didn't talk to him about the
14	issuance of that press release, you say?
15	THE WITNESS: No, I did not.
16	Q Have you ever received a bottle of liquor as
17	a gift from Mr. Rauch?
18	A As a matter of fact, I received two bottles of
19	liquor.
20	Q All right. When did you receive those bottles
21	of liquor, sir?
22 .	A I'm sorry to state I do not know.
23	THE COURT: Was this after you had lunch with him
24	at this restaurant?
25	THE WITNESS: Some time after.

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Neuwirth-direct

THE COURT: It was after that. Well, we got something anyway. It was after the lunch.

THE WITNESS: Yes, sir.

THE COURT: Was it after you called him up that evening to return his call?

THE WITNESS: I have no record of these two bottles.

I was a little shocked, surprised. And that was his way of doing business, sending bottles.

BY MR. DRAKE:

- Q Mr. Neuwirth, do other brokers call you, sir?
- A At this late stage nearly not any more. They were all channeled to Mr. Bloom, they knew he knew more than I did.
- Q Let's stick to the period during which Mr. Rauch was calling you. Were other brokers calling you?
 - A Not me, no. The answer is no.
 - Q Were you talking to them on the phone?
 - A To the other brokers?
 - Q Were you calling them?
 - A No, I was not, I never called a broker unless I--
 - Q Just Mr. Rauch?
 - THE COURT: No, no. I don't think that is a fair--
 - MR. DRAKE: That is what I want to ask, your Honor.
 - Q Did you talk to other brokers besides Mr. Rauch?

2	A I didn't call Mr. Rauch, he called me.
3	Q Well, you called Mr. Rauch at home?
4	THE COURT: Wait a minute. I think you're getting
5	yourselves all confused here. Do other brokers call you,
6	Mr. Neuwirth, from time to time?
7	THE WITNESS: Your Honor, at that time
8	THE COURT: No, no. Just answer my question.
9	THE WITNESS: No.
10	THE COURT: Other brokers do not call you.
11	THE WITNESS: Not any more, no.
12	THE COURT: Well, did they during this period when
13	Mr. Rauch was calling you?
14	THE WITNESS: No.
15	THE COURT: No. So that during this period only
le	Mr. Rauch would call?
17	THE WITNESS: Yes.
18	THE COURT: All right.
19	BY MR. DRAKE:
20	Q Did you have luncheon with any other brokers
21	besides Mr. Rauch?
22	A Alone?
23	MR. STRUM: I object your Honor.
24	THE COURT: Well, these questions, I don't quite
25	get your question. If you want to ask him whether this
- 11	

Because of business commitments.

		201
1	mh44	Neuwirth-direct
2	Q	Did you tell him what those business commitments
3	were, sin	:?
4	A	No. No, I did not.
5	Q	What did Mr. Alpert say to you when you told him
6	that you	were busy?
7	A	I came back from Chicago and I stayed in the
8	city and	I had business meetings. On that day I also had
9		of directors' meeting.
10	Q	Well, did you talk to Mr. Alpert on the telephone
11	or in per	son?
12	A	Not in person. Must have been telephone.
13	Q	To you recall whether he called you, or
14	A	I think I called him from Chicago.
15	Q	What did you tell him?
16	A	That I'm not available the 17th.
17	Q	And he didn't ask why?
18	A	He didn't ask me.
19	Q	You don't recall telling him then that you
20	were busy	closing a deal, or something to that effect?
21		MR. STRUM: Your Honor, I object. That question
22	has been	asked and answered several times.
23		THE COURT: I think it has, yes.
24	Q	Now, sir, you met with the Burmah representatives

here in New York December 17th, 18th and 19th; is this

	260
1	mh45 Neuwirth-direct
2	correct, sir?
3	A It was December 17th and December 18th. The
4	19th I do not recall.
5	Q December 17th?
6	A And 18th.
7	Q What did you talk about at these meetings?
8	A Mr. Drake, this is what I call negotiations.
9	What I would call negotiations. This is the very first time
10	the matter of money was discussed.
11	Q You say the matter of money.
12	A Money was discussed.
13	Q Who brought up the matter of money?
14	A Well, I asked I was
15	THE COURT: I think we are getting off the line.
16	As I understand it these meetings were held and these fellows
17	had an interest in acquiring Geon, and you were interested
18	in money. I suppose you said, well, how much is it worth
19	to you? Something to that effect. Is that what happened?
20	THE WITNESS: Exactly, your Honor, the way you
21	are describing it.
22	THE COURT: I would suppose so. That sounds like
23	a business negotiation to me.
24	THE WITNESS: Exactly.
25	THE COURT: All right.

mh 46

Neuwirth-direct

- Q What else did you discuss besides money?
- A It was money, money, money.
- Q Did you have any other problems, or did they have any conversation besides money?

MR. STRUM: I object, your Honor.

THE COURT: Well, I think I would like you to give us your best recollection. You say you were sitting down with them on the 17th and the 18th?

THE WITNESS: 17th, your Honor, from 4 o'clock on.

THE COURT: All right. Now going back to 4 o'clock on the 17th, let me have your best recollection. You said you were taking money..

What did they ask you and what did you say? Tell us to the best of your recollection.

THE WITNESS: At the time I met with these gentlemen, the very first question would be, "Are you assured that you can deliver the management, otherwise we are not interested in this deal." And I have obtained assurances from my management that they are willing to work for Burmah. Whether I am part of it or not. We received around — he came to my hotel together with Mr. Roberts and Newland, and after this preliminary of the matter of employment I asked him, what is your offer? And he answered, "\$30,000,000." And Mr. Pisciotta — this I will never forget — he said

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Neuwirth-direct

"30,000,000" and Mr. Pisciotta said, "Is that pounds?"

And he said, "No, this is U.S. dollars." And my reaction

was, this is wholly and completely unsatisfactory. We

cannot continue this discussion unless you are changing

your offer. " The next offer was, to the best of my recol
lection, \$32,000,000.

THE COURT: Who said \$32,000,000?

THE WITNESS: Mr. Simonis.

THE COURT: So you said, it is unsatisfactory, and he went up to \$32,000,000.

THE WITNESS: 32. Which I still didn't consider satisfactory. You want me to continue with the --

Q Yes, please.

A I asked him, upon what do you base this offer?

A He says, "Mr. Newland worked out a five-year projection parallel with your projections, and this is the number with which we can come up with." Upon which Mr. Bloom asked to see those -- his five-year projections, Mr. Newland's five-year projections. And there then ensued the discussion between Newland and Bloom on the interpretation of the two projections.

We couldn't get any further, and it was decided that they will work through the might, if necessary, Newland and Bloom, to establish a new joint projection.

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Neuwirth-direct

I must say also that David, David from -- David, you know, who was the middleman in the deal --

- Q Gavrin?
- A I am looking for help. David -
 THE COURT: That was Mr. Gavrin, the fellow from -
 THE WITNESS: Gavrin. David Gavrin was also present.

.....

A (Continuing) Now, Gavrin had a tremendous idea, he had in his pocket one of these new calculators and the three worked in my room, I would say until 1 or 2 o'clock in the morning.

THE COURT: Were you there while this was going on?

THE WITNESS: I was there until about 12 or 1

o'clock, your Honor, and then I just kind of dozed. I didn't go to sleep, but I dozed.

THE COURT: You stayed there.

THE WITNESS: I stayed there.

THE COURT: All right.

THE WITNESS: We agreed at this time -- okay, I would say that Mr. Simonis and Mr. Roberts retired to their hotel around 7 o'clock, 6, 7 o'clock. We agreed that we will meet next day in their hotel, which was at the Hotel Pierre, which is just a block and a half away from our hotel. We met there around 11 o'clock.

In the meantime Mr. Newland had an opportunity to

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Neuwirth-direct

show the revised projections to Mr. Simonis, and to Mr. Roberts, and he told me, after the customary, sit down, have a drink, he told me that they are willing to go, based on this new projection, as far as \$34,000,000. This still wasn't satisfactory to me. And it wasn't satisfactory to my collaborators. And it was a crisis situation.

Do we break off? Do we meet again at a later stage? And at this moment in this crisis situation Mr. Maxwell Roberts stood up, and he said the following: "George, this may cost me my job. I am sticking my neck out. I like your company and I like you people. I am making you an offer of \$36,000,000." And Mr. Simonis was somehow taken aback, surprised. And he said, "Well, I will not contradict Max, if it's \$36,000,000, I have no authority to go that high. I will have to consult with the board in England."

On the \$36,000,000 number we shook hands, we understood that he will have to go back to the board.

THE COURT: Who shook hands?

THE WITNESS: Mr. Simonis and myself.

THE COURT: You did?

THE WITNESS: Yes.

THE COURT: Subject to their board.

THE WITNESS: Subject to their board. Upon which Mr. Roberts says, "George, what Simonis wants, Simonis gets."

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE FOLEY SQUARE, NEW YORK, N.Y. CO 7-4580

1.	mh50 Neuwirth-direct
2	And we broke out a few bottles of champagne which were ready,
3	iced, the glasses were there and we toasted each other and
4	there was a surplus of champagne which he gave me to take
5	back to my hotel.
6	My memory is so vivid of this I will never forget
7	1t.
8	THE COURT: So you got \$36,000,000 plus the rest
9	of the champagne.
.0	THE WITNESS: The champagne.
1	THE COURT: All right.
2	THE WITNESS: And this is how it happened.
13	THE COURT: All right.
4	BY MR. DRAKE:
15	Q Mr. Neuwirth, was there any discussion at these
16	meetings concerning a pre-tax earnings figure for Geon?
17	A That was in the, I understand, in the purchase
18	agreement, Mr. Drake, which I really did not study in depth.
19	I heard it yesterday here there was a number stipulated, yes.
50	Q Sir, my question is, were there any discussions
21	at these meetings
22	A None whatsoever.
23	Q Was there any discussion of any net worth figure
24	for Geon?

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There was no discussion. Are you talking discussion?

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Neuwirth-direct

THE COURT: You were bargaining?

THE WITNESS: My job was to bargain and represent the company.

- Now, on December 20th, Geon put out a press release announcing that an agreement with Burmah had been reached in principal and the sum was for \$36,000,000; is that correct?
 - A I would like to see the press release.
 - Q Yes (handing).
 - A Thank you.
- Q Did you have further discussions after this December 20th meeting, sir, with Burmah?
 - A After the 18th?
 - Q Well, yes, after the 18th. Yes, sir.
 - A 18th. Mr. Simonis left the same night for London.
- Q What form did the negotiations then take? Did you turn it over to your lawyers then for example?

THE COURT: Well, don't tell him. He went back to England, and what did Max do?

THE WITNESS: Max went back to Westchester where he lives.

THE COURT: Did you have further conversations with Max or Newland or --

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Neuwirth-direct

	THE WITNESS: No.	They	probably	had	conversations
among	themselves.				

THE COURT: But you didn't?

THE WITNESS: I did not.

THE COURT: You didn't.

When did you next meet with Burmah representatives, Q Mr. Neuwirth?

Mr. Drake, from this moment on my --A THE COURT: Well, just tell us when --

(Continuing) My conversations with Burmah diminished. A THE COURT: Answer the question. Did you see the Burma people after this meeting, or any of them? THE WITNESS: I have no recollection.

THE COURT: You don't remember seeing them again. All right.

Q Was there a timetable established during these December 17th and 18th meetings for a closing of the deal?

Mr. Drake, this was done among the technicians, the lawyers --

> THE COURT: Well, you didn't do anything about it. THE WITNESS: I didn't. No.

THE COURT: All right.

When was the next time you were involved in the discussions with the Burmah representatives?

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Neuwirth-direct

A I believe it was around -- we had a directors' meeting December 21st, and a directors' meeting at the Waldorf, like the day after the directors' meeting at the Waldorf. Can I consult my calendar?

Q Yes.

THE COURT: Yes.

A I would say February 25th.

Q Mr. Neuwirth, let me call your attention, sir, to your testimony before the Securities and Exchange Commission. This is page 14 at the very bottom, last line.

"Q Now, was there any time set as to when this agreement was in principal would be reduced to writing and ratified formally by the board of directors?

A Can I say something off the record to make it easier for everybody to understand?

Mr. Korman: Say it on the record.

Mr. Connelly: On the record.

The Witness: The timetable called for a much speedier consummation of the arrangement. At the same time as Burmah had negotiated with us, they have also negotiated to take over -- what is the proper word?"

Now, what were you referring to, sir, when you say "The timetable called for a much speedier consummation of the arrangements"?

mh54

Neuwirth-direct

A I was answering your question before whether I had any meetings with Burmah, to which I said the 25th.

Now you are referring to a testimonial. I was being told, George, we will speed this thing up, and go ahead as far as we can at one time. And then two or three meetings were set up between Max Roberts and myself, including my crew naturally, and they were cancelled. And Max Roberts felt very bad, Maxwell Roberts felt very bad about these cancellations. And he told me, "George, these are things beyond my control, but if you feel bad, or, if you are insulted," something to that effect, "then I will have Peter Simonis call you to assure you that nothing has happened and there is just some business we have to attend to."

Q Mr. Neuwirth, the question, sir, is was there a timetable established?

A No, no actual written timetable. No.

Q Was there a discussion as to when the agreement in principal would be concluded?

A Not with me.

Q I am puzzled by your statement, Mr. Neuwirth, when you say that the timetable called for a much speedier consummation of the arrangement. What did you mean when you said that, sir?

A I meant that as soon as they had our earnings figure

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Q Was it your interpretation that Geon's earning figures were a condition precedent to the concluding of the deal?

A Naturally, yes.

Was this discussed at the December meetings, December 17th and 18th?

MR. STRUM: I object, your Honor. That has been asked and answered before. Specifically --

THE COURT: Yes, I think he said that they didn't discuss figures at this meeting at the Pierre, you were bargaining. Is that --

THE WITNESS: That's correct.

THE COURT: And you didn't discuss what the nine months figures would be, or what any figures would be? THE WITNESS: No.

THE COURT: This was just arranging for 30,000,000 up to 36,000,000.

THE WITNESS: 36,000,000.

THE COURT: All right.

BY MR. DRAKE:

On what is your interpretation based then, sir? Q MR. STRUM: I object. THE COURT: Interpretation of what?

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Neuwirth-direct

MR. DRAKE: He said it was his interpretation, your Honor, that the agreement in principal was based on the earnings figure.

Now I want to know why was that?

MR. STRUM: That was not the testimony, your Honor.

MR. DRAKE: Could you read back the testimony,

please?

THE COURT: I think you are getting off on a bit of a cloud on that. I think what he was saying is that the-you contemplated, I suppose, when you were bargaining there was going to be a contract, did you, to do --

THE WITNESS: A purchase contract executed rapidly, contingent upon the earnings.

THE COURT: And you contemplated that in the contract you would make representation as to what the earnings were.

THE WITNESS: Yes, sir. And guarantees.

THE COURT: That's right. And guarantees.

THE WITNESS: Right.

THE COURT: That's what you meant.

THE WITNESS: Right.

THE COURT: All right. I think I understand that.

BY MR. DRAKE:

Q Mr. Neuwirth, somewhere around February 10th to the

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14th did you receive a phone call at your home from Mr.
Marvin Rauch?

THE COURT: I didn't get the date.

MR. DRAKE: February --

THE WITNESS: February 10th to 14th. All right.

A At my home?

Q Yes, sir.

A I have absolutely no recollection. I can't recall all Marvin Rauch's calls.

Q Did you talk to him that frequent that you can't recall?

A He called that frequently until I had to cut him off, until I told him Marvin, you have to stop calling me.

Q When did you cut him off?

A I would say somewhere in January. But the date, some were perhaps later, some perhaps mid-January, in that area. They became just too annoying.

Q Did you talk to him in February?

A I don't know. If he called, I'm a courteous man, again, old fashioned, I usually pick up the phone. My telephone is not filtered. I have no secretary who will take your call, this call, the switchboard sometimes tells me who is calling.

Q Did you ever tell Marvin Rauch in this February

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time frame that you expected to sign before the auditors were finished?

A Before the -- I don't recall, and I don't recall that I would have made such a statement to him.

Could you have made that statement to him?

A No.

MR. STRUM: I object, your Honor.

THE COURT: Well, he hasn't any recollection of making any such statement.

Q Did you ever make a statement to Mr. Rauch to the effect that Geon was acting like a subsidiary of Burmah?

I did not make such a statement.

Did you ever tell Mr. Rauch some time around February 10th to the 14th of 1974 that you expected to conclude the deal in approximately two weeks?

I did not know, and if I would have known I wouldn't have told Rauch.

THE COURT: Well, the answer is, no, you did not tell him that.

THE WITNESS: No.

THE COURT: All right.

Do you recall whether you had a conversation with Mr. Rauch during this time period?

THE COURT: No, I think we have been all through that,

That's correct, sir.

is this correct, sir?

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	280
1	mh60 Neuwirth-direct
2	Q Between February 15th and February 21st did you
3	have any conversation with Mr. Marvin Rauch?
4	A I do not remember.
5	Q Do you recall Mr. Rauch calling you somewhere
6	in that time period and asking you if there was going to
7	be a solicitation fee?
8	A I don't recall, sir.
9	THE COURT: Do you mean a solicitation fee with
10	respect to the proxies? Is that what you're talking about?
11	MR. DRAKE: Yes, your Honor, I'm sorry.
12	THE WITNESS: If he would have I wouldn't know
13	anyway.
14	Q You don't recall any such conversation?
15	A No.
16	Q Mr. Neuwirth, was there any public announcement
17	of the board of directors' meeting, of the impending board
18	of directors' meeting on February 21, 1974, and the purpose
19	of that meeting?
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21	THE COURT: If you recall. By a public announce- ment you mean a press release?
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23	MR. DRAKE: Press release, yes, sir. A I do not think so
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25	bard of directors
	meeting, Mr. Neuwirth?

1	mh61 Neuwirth-direct
2	A The purpose of that meeting was to get the okay
3	of the board to go ahead and sign a purchase agreement
4	with Burmah.
5	Q This was the purchase contract that the attorneys
6	had worked out?
7	A Right, sir.
8	Q And a copy of which is attached to Exhibit 9 that
9	you just saw, sir?
10	A Yes, I believe so.
11	Q Was this a specially called board of directors'
12	meeting?
13	THE COURT: If you know. Do you have regular
14	meetings of the board?
15	THE WITNESS: We have quarterly meetings.
16	THE COURT: Quarterly meetings.
17	THE WITNESS: Anything in between is a special
18	meeting.
19	THE COURT: And this was in between.
20	THE WITNESS: In between.
21 22	THE COURT: All right, then it was a special meeting.
23	Q Did you have dinner with Mr. Roy Alpert on
24	February 20, 1974?
25	A I did, sir.
20	Q This is the night preceding the board of directors!

	284
1	mh62 Neuwirth-direct
2	meeting?
3	A Yes, sir.
4	Q Where was that dinner, sir?
5	A It was in a, again, in a restaurant in Great Neck
6	called Peter Luger.
7	Q Who was there, sir?
8	A Mr. and Mrs. Alpert, my wife and myself.
9	Q Did you discuss the Burmah transaction that evening?
10	A No, I did not.
11	Q Did you tell Mr. Alpert that you were going to
12	have a board of directors' meeting the next day?
13	A I told him, yes, I will have a board of directors!
14	meeting.
15	Q Did you tell him the purpose of that board of
16	directors' meeting?
17	A Yes, I told him to I remember my phrase
18	to rubber stamp an agreement.
19	Q How did this come up?
20	THE COURT: Is that what you say to your directors,
21	you ask them to rubber stamp the agreements?
22	THE WITNESS: That was my idea of the meeting.
23	THE COURT: Okay.
24	A How did I what?
25	Q How did this conversation come up, sir?

	283
1	mh63 Neuwirth-direct
2	A It was no conversation. It was a 25-word
3	statement.
4	Q Did he bring it up, or did you bring it up, sir?
5	A I would say I brought it up.
6	Q Do you recall specifically what you said?
7	A "Tomorrow I am going to the city to rubber stamp
8	an agreement".
9	Q Did you tell him that you would call him and tell
10	him what happened at that meeting?
11	A Mr. Drake
12	THE COURT: Yes or no.
13	A No.
14	THE COURT: All right.
15	Q Did you indicate to him that you would communicate
16	to him the results of that meeting?
17	A No, sir.
18	Q Was there any discussion of your getting together
19	with him the next day?
20	A No, sir.
21	Q Was there any discussion of your calling him the
22	next day?
23	A No, sir.
24	Q Did Mr. Alpert say anything in response to your
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statement?

	284
, 1	mh64 Neuwirth-direct
2	A Nothing. We did not have business discussions
3	ever.
4	Q Did he say, "Congratulations," or
5	A No.
6	Q On February 21, 1974, I believe it was a Thursday,
7	what time did you go into your office that day, sir?
8	A I went to the office quarter I arrived there
9	about 3:15 in the afternoon.
10	Q 3:15 in the afternoon?
11	A Yes.
12	Q I am talking about at your office, sir, at Geon.
13	A Oh, excuse me. Which day, sir?
14	Q On Thursday, the 21st.
15	THE COURT: This is the date of the board meeting,
16	I take it; is that right?
17	MR. DRAKE: Yes, your Honor.
18	THE COURT: All right.
19	A That's the date of the board meeting. I arrive
20	at my office always at 10:30 in the morning.
21	Q Did you have any discussions that morning with
22	Mr. Bloom?
b37 ²³	A No.
24	Q Did you have any discussions that morning with yor
25	son, Peter Neuwirth?

1	mh65	Neuwirth-direct 285
2	Α .	I did not.
3	Q	What time was the board meeting scheduled for?
4	A	3:30.
5	Q	Where was the board meeting scheduled?
6	A	At the offices of our counsel, Kaye Schoeler.
7	Q	What time did you arrive?
8	A	I arrived at 3:15.
9	Q	Did you go right into the
10	A	Board room.
11	Q	What did you observe when you walked in, sir?
12	A	In what respect?
13	Q	Well, who was there when you walked in?
14	A	My son was there, Mr. Bloom was there, Mr. Korman
15	was there	, perhaps Mr. Jack Friedman was there. That's about
16	all there	was.
17	Q	What was said to you when you walked into the
18	room, sir	?
19	A	I walked into that conference room and my son,
20	Peter, app	proached me, his face downcast, very sad expression
21	on his for	se and he talls me What down the bate

A I walked into that conference room and my son,

Peter, approached me, his face downcast, very sad expression

on his face, and he tells me, "Dad, from the bits of papers,

or from the little information, fragmentary information

which we have in our possession, it appears we didn't make

our target.

Q Do you recall testifying, sir, when I asked the

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Neuwirth-direct

question as follows, this is at page 25, Mr. Strum, "Q' -- this is line 13, "Q What if anything did they tell you?

"A They didn't have to talk much. My son Peter approached me. His facial expression told me there was something wrong. Something very wrong. Something happened, you know. I don't know. He just looked terrible. 'Dad, I have some bad news for you' something like that.

"Q What did he say?

"A He said with the material that we have at hand our profits, we didn't make our profit -- " Excuse me, I don't know if those were the exact words -- "We are short of our projections".

Was that your testimony, sir?

A What did you say, sir?

THE COURT: What did what?

MR. DRAKE: What did Mr. Neuwirth say in response to that?

A What happened?

Q Again, let me read to you your testimony, sir, at the bottom of page 25.

"Q Did he give you a figure at that time --"

MR. STRUM: Your Honor, I would like to object.

THE COURT: I don't quite know why we are doing

all this either, I must confess. What did you do after you

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Neuwirth-direct

heard your son Peter --

THE WITNESS: I saw the two men, my son and Frank, and they had a very, very sad face, and I tried to find out what happened, what anybody else will do. Whether I used one word or another --

THE COURT: Peter is your son?

THE WITNESS: Yes.

THE COURT: You saw your son?

THE WITNESS: He came to me first.

THE COURT: Who?

THE WITNESS: My son Peter. They were waiting for me, they couldn't reach me.

> THE COURT: And Frank didn't look so hot either? THE WITNESS: He looked very cold, your Honor.

THE COURT: All right.

THE WITNESS: And you asked what happened.

THE COURT: What did they say?

THE WITNESS: They mentioned we have a shortfall off from this fragmentary information which we have, it appears we have a shortfall, I remember the word, of about \$800,000.

THE COURT: All right.

MR. STRUM: Your Honor, I would just like to point out that the reas n why I objected is that if one looks

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Neuwirth-direct

at the transcript about what Mr. Neuwirth said at that time one will note that he said other things on the very same conversation and not just the one or two sentences adverted to.

THE COURT: I understand that. My point is, you can ask your questions here if you find he is saying anything different now. I will just have to read this transcript.

MR. DRAKE: Well, your Honor, I thought I was asked the same exact question.

THE WITNESS: And I gave you the same exact answer.
THE COURT: Yes.

BY MR. DRAKE:

Q Do you recall testifying, sir, that you were already in shock then?

A I was -- sure. It was a shock, because this was the first time in our history that such a thing ever happened.

Q What about Mr. Bloom, was Mr. Bloom present?

THE COURT: We have been through that. He said

Mr. Bloom was there and Mr. Bloom looked badly, to him.

Q Was this actually prior, before the other board members arrived? Is that right?

A In the meantime, two other board members arrived, Mr. Hayes and Russ Morrison.

Q Did the board meeting formally begin?

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Neuwirth-direct

A Well, they told me that the receptionist at

Kaye Schoeler announced that Mr. Hayes and Mr. Morrison

are here and in the board room, somebody said let's keep

them waiting a few minutes until we tell you more. And

my reaction was, no, bring them in immediately. And that's

what happened.

- Q So they came into the room?
- A Immediately. As soon as they arrived.
- Q Did someone tell them about the figures?
- A Yes.
- Q Who was that, sir?
- A I believe, sir, it was my son Peter.
- Q What did he say?

 THE COURT: If you remember.

A He said the same thing to them what he told me.

He said, "We do not have definite figures, but based upon hastily assembled information which we have received from our branches, I take it, I have to tell you that our anticipated gross profit did not materialize. Or something to that effect.

With different words, perhaps.

Q Did he say something about being short, considerably short of your projections?

THE COURT: We have been all through this. They were short \$800,000, I have already got that. What are we

Neuwirth-direct

adding to all this?

MR. DRAKE: There was reference made to the board of directors' meeting that was comparable to the projections, your Honor, and not to final reports, and not the final audited statements that Mr. Neuwirth stated that his son Peter said we are short of our projections.

THE COURT: that's right, well, that's what i understand and that is what he has testified to and I don't know why we are going on into this.

Q What was discussed at the board meeting then, Mr. Neuwirth?

A At the board meeting we discussed -- we didn't believe this. My son Peter did not believe it, and Frank Bloom didn't believe this.

Q Did they tell you why they didn't believe it?

A No, they didn't tell me. I didn't believe it, nobody else did. And we just decided that we would use all possible effort and diligence to find out whether, A, the numbers were correct and, B, what happened.

- Q How long did the meeting last, sir?
- A I would say an hour, hour and a half.
- Q Could it have lasted as late as 5:30?
- A My recollection would be 4, 5 o'clock. But I wouldn't argue with you if it's 5:30.

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Neuwirth-direct

- Q What else was discussed?
- A The main thing that was discussed, how did we get into this situation, and they were all talking to Frank and Peter -- you have to immediately start working and find out, first of all get a final accounting. This was all based on fragmentary and temporary information. Let's find out what happened. That was discussed.
- Q Was there any discussion, sir, of someone watching the market activity in Geon stock?
 - A I didn't hear it. I don't believe so.
 - Q You didn't hear any yourself?
 - A No, I didn't. I don't have bad hearing. I didn't.
- Q Was there any discussion as to whether or not Geon should put out a press release?
 - A It was not discussed.
- Q Was there any discussion as to whether or not this information should be kept among the members of the board?
- THE COURT: How many members of the board were there at this meeting?
- THE WITNESS: Two of them were not members. Frank Bloom is not a member of the board, Friedman isn't, Russ is, Peter is, I am. The quorum was there.

THE COURT: Well, was there any discussion --

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Neuwirth-direct

I think your question was directed to whether there was any conversation that until we work this out further we shouldn't tell any other members of the board; is that--

THE WITNESS: No, we wouldn't hide anything from the members of the board, Oh, no.

THE COURT: All right.

BY MR. DRAKE:

Q Did the board reach a decision as to what they would do, sir?

A Yes.

Q What was that decision?

A The decision was to meet Sunday evening at, somebody suggested the Waldorf-Astoria, and my counsel said, I will make the arrangements to get a conference room at the Waldorf-Astoria Sunday.

THE COURT: What time on Sunday were you going to meet? Do you remember?

THE WITNESS: It was evening.

Q How did you consider these preliminary figures Mr. Neuwirth?

MR. STRUM: I object your Honor,

Q What was the impact --

THE COURT: I am going to sustain the objection to that. He has given us the impact.

1	mh73 Neuwirth-direct
2	You were short in your mark on what you told
3	Burmah.
4	THE WITNESS: I was in shock.
5	THE COURT: Yes. I don't know why we should go
6	into all that.
7	Q Did you ever indicate, Mr. Neuwirth, it was like
8	an atomic bomb?
b38 9	MR. STRUM: I object, your Honor.
10	THE COURT: What difference does it make whether
11	he did? I don't see it makes the slightest difference to
12	me whether he said that or not.
13	Q Did you go home that evening, sir, after the board
14	of directors' meeting?
15	A I did not go home.
16	Q Did you go back to the office?
17	A Excuse me. Which day now? We have two directors
18	meetings.
19	THE COURT: You're talking about Friday?
21	MR. DRAKE: Friday, sir.
22	A About Friday?
23	Q Yes, sir.
24	No. STRUM: I think we're talking about Thursday.
25	MR. DRAKE: I'm sorry, Thursday afternoon.
	THE COURT: That was the first session of the

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Was Mr. Neuwirth, Mr. Peter Neuwirth there? Q

No.

Did a phone call come in on your line from the Q Amex?

1	mh76 Neuwirth-direct
2	Q You stayed at Mr. Peter Neuwirth's office?
3	A About half an hour.
4	Q While you were there did Mr. Bloom call you?
5	A Mr. Bloom couldn't call me, these are adjacent
6	offices. One is next to the other.
7	Q Did Mr. Bloom ever tell you that morning that
8	he was in communication with a man from the American Stock
9	Exchange?
10	A Yes, he did.
11	Q When was that?
12	A It was the Friday morning when I came over there,
13	he called around 11 o'clock, he told me he was talking
14	to a man at the American Express, Randy something, and he
15	was talking to the lawyers and there seems to be a problem.
16	Q Did he tell you that he had already talked to
17	somebody from the American Stock Exchange, or that he was
18	talking to him?
19	A I would say he told me he talked to them.
20	THE COURT: Had talked?
21	THE WITNESS: Had talked.
22	Q What did Mr. Bloom say he told the man at the Amex.
23	A Mr. Bloom told me upon advice of counsel he told
24	him that we have no statement to issue at this time.
25	Q As I understand it, sir, you arrived at your office

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1 -	mh77	Neuwirth-direct
2	somewhere	around 10?
3	A	I arrived there, yes.
4	Q	And you left your office and we. ar son
5 .	Peter Neuw	irth's office?
6	. A	Around 11, yes.
7	Q	You left your office at 11?
8	A	The offices are 300 yards away in another building.
9	Q	All right. Did you talk to Mr. Matt Siegler that
10	day?	
11	Α .	Yes, I did.
12		THE COURT: Who is he?
13		THE WITNESS: He is the controller of a division,
14	the export	division.
15	Q	that time did you talk to Mr. Siegler?
16	A :	would place that call somewhere 10:30, 10:40.
17	Q I	Old you call Mr. Siegler?
18	A 1	lo.
19	Q I	Old he call you?
20	A F	le came to my office.
21	Q I	oid you summons him in your office?
22	AT	hat's in another building.
23	Q r	o you have a buzzer that you can buzz Mr. Siegler?
24	AI	have a buzzer, yes.
25	Q D	id you buzz him twice that morning which means for

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Neuwirth-direct

him to come over and see you?

A I don't think I buzzed him. I think he came by himself.

- Q You don't recall buzzing?
- A I don't recall the buzzer.
- Q What did you say to Mr. Siegler?

THE WITNESS: Your Honor, Mr. Siegler is the man who has served me faithfully 27 years--

THE COURT: No, no. I know that, just tell us what you --

THE WITNESS: What did I tell him?
THE COURT: Yes.

A I told him, "Mattie, I was at a directors' meeting yesterday and" -- he told me first, he came in and told me he just received a call from his broker, and he said the broker told him there is an imbalance of orders on Geon stock.

- Q Mr. Siegler mid this before you said anything to him?
- A Before I said one word to him.
- Q What did you say?

A Well, this is the first time I heard the word
"imbalance" and being a man of average intelligence I believed
that that meant there are more sell orders than buy orders.

THE COURT: There would be an imbalance either way, wouldn't there? But you thought that day it meant there

were more sell orders than buys?

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THE WITNESS: Right. Because he also came in like alarmed. And I told him, "Mattie, sit down," and I said, "I was at a directors' meeting yesterday and it appears that we did not make our target as far as the gross profits are concerned. But," I told him, "Regardless what the future holds you go ahead with your plans of retirement." He sold his house and bought a small condominium in Florida, "I will always stand by and help you." Something to this effect.

Q Well, did he ask you what happened?

A I told him, I started that way, told him, "At the board of directors' meeting it appears," some words to this effect, "that we didn't make our target of profit.

Q Did you tell them something to the effect that the figures didn't jibe?

A I'm using that expression frequently, yes.

Q Did you tell him that he didn't have to worry about his retiremen?

THE COURT: We have been all through that. Yes, we have had that.

Q Why were you concerned about his retirement, Mr. Neuwirth?

A Because the man means something to me. I knew all his savings were in Geon stock. He sold his house. He

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Neuwirth-direct

against his Geon stock, and the man was in tremendous jeopardy.

And having had him in my employ, he served me faithfully and diligently over more than a quarter of a century, I just felt a little compassion. It does happen once in a while a man feels compassion.

Q Mr. Neuwirth, do you keep certain substantial shareholders of Geon informed as to important corporate developments?

MR. STRUM: I object to the question, your Honor.

THE COURT: Well, I think I will sustain the objection in that form.

You told us, I think, at the outset that you owned-what was it, 7 per cent -- how much do you own in Geon?
THE WITNESS: I own something 7 per cent.

THE COURT: And that you have a voting trust which votes around --

THE WITNESS: Family.

THE COURT 20 --

THE WITNESS: 28 per cent.

THE COURT: 28 per cent. Are there any other large stockholders besides that?

THE WITNESS: In my family, yes.

THE COURT: In your famkly, who are not in the voting

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Neuwirth-direct

THE WITNESS: Who are not in the voting trust. THE COURT: All right.

The question is, are you the only voting trustee? THE WITNESS: I am the only voting trustee for 28 per cent.

THE COURT: All right. Well, I think the question is, do you keep these people informed, the people who are parties with you in the voting trust, and the other members of the family, of developments in Geon, when they come along do you keep them informed?

THE WITNESS: No.

BY MR. DRAKE:

- Mr. Neuwirth, did you tell anyone else that the board of directors was going to meet to rubber stamp the Burmah deal?
 - On that day, that was the 21st, that Thursday --
 - Yes, sir. Prior to that.

THE COURT: You're getting off on time and you are confusing me. I don't know about the witness. Now the question is, you mentioned to Roy Alpert, as I recall it, at dinner the day before this board meeting that you were going to New York to rubber stamp an agreement.

THE WITNESS: That's correct, your Honor.

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Neuwirth-direct

THE COURT: All right. Did you tell anybody else that you were going to rubber stamp an agreement?

THE WITNESS: Yes, your Honor.

THE COURT: Who did you tell?

THE WITNESS: The next day, the day of the meeting I had lunch with two brother-in-laws, both of them were substantial stockholders.

THE COURT: What are their names?

THE WITNESS: One is Lazarus, and one is Hess.

THE COURT: They are relatives of yours?

THE WITNESS: Yes. I remarried five years ago, your Honor, and these are brothers-in-law of my wife and I am very, very friendly with them. And these are very substantial stockholders. In excess of 10,000 shares.

I told them I am going to the city to rubber stamp an agreement.

BY MR. DRAKY:

Q Who else do you remember telling, sir?

A To the best of my recollection I didn't really mention it. I didn't mention it. There may have been one or two analysts, somebody who may have called me, but i'ts minimal.

THE COURT: Well, wait a minute. I am sure you think that, but you say one or two analysts may have called you. Was that on the same day, February --

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	1	mh83 Neuwirth-direct
	b39 2	THE WITNESS: Not the same day.
	3	THE COURT: When would this have been?
	4	THE WITNESS: Two, three days before.
	5	THE COURT: Two or three days before?
	6	THE WITNESS: That I heard there would be a
	7	board of directors. They knew the fact.
	8	THE COURT: They knew a board meeting was being
	9	held?
	10	THE WITNESS: And what we were going to do.
	11	THE COURT: And you would say you were going to
	12	rubber stamp
)	13	THE WITNESS: And we were going to sign a purchase
	14	agreement.
	15	THE COURT: All right. Do you remember who these
	16	analysts were?
	17	THE WITNESS: No. I don't keep a record.
	18	THE COURT: All right.
	19	BY MR. DRAKE:
	20	Q Let me ask you: Do you remember me asking you, sir,
	21	a question, this is at page 55, the question actually begins
	22	at the bottom of page 54:
	23	"Q Who else that you can think of, that you can
	24	remember telling?
	25	" A Mames. These people's names I remember well. Others

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1	mh84 Neuwirth-direct
2	on the club on a Sunday, I usually go there for lunch, or
3	after lunch.
4	Q There may be others?
5	A There may be others. Their names are meaningless
6	to me. Just friends of the but here are important stock-
7	holders who I talked to, very important stockholders."
8	Is that your testimony, sir?
9	A Yes, this is Lazarus and Hess.
10	Q Okay, sir. Mr. Neuwirth, does the present ac-
11	quisition contract with Burmah provide for future employment
12	of yourself, sir?
13	A Yes, it does.
14	Q In what capacity?
15	A As vice chairman of the board.
16	Q Does it also provide for the employment of Mr.
17	Eloom?
18	A It does.
19	Q In what capacity?
20	A Sorry, I don't know.
21	Q What about Mr. Peter Neuwirth, does he have an
22	employment contract also?
23	A Yes, he does.
24	Q What position is he going to hold?
25	A I'm sorry, I haven't seen their contract.
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1	mh85 Neuwirth-direct
2	THE COURT: Are these all four-year contracts or
3	was yours younger?
4	THE WITNESS: Mine is two years.
5	THE COURT: Yours is shorter. I think Mr. Bloom
6	said something about four-year contracts.
7	THE WITNESS: That was the original thing.
8	Q Mr. Neuwirth, you stated that other analysts had
9	called. Do you remember if Mr. Ivan Boesky may have called
10	you?
11	A That name is alien to me. I don't know that name.
12	Q You don't recall the
13	A No, I don't recall.
14	MR. DRAKE: I have no further questions at this time
15	your Honor.
16	THE COURT: How many questions are you going to
17	have to ask the witness?
18	MR. STRUM: Your Honor, I would judge that I probably
19	have, with Mr. Neuwirth, the better part of an hour.
20	THE COURT: Well, you have had a long seat, Mr.
21	Neuwirth, we will take a luncheon recess and we will resume
22	at half past 1.

(Luncheon recess)

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AFTERNOON SESSION

1:30 P.M.

THE COURT: You may proceed, Mr. Strum.

GEORGE NEUWIRTH, resumed.

CROSS EXAMINATION

BY MR. STRUM:

- Q Mr. Neuwirth, what is the date and place of your birth?
- A I was born December 7, 1903, in a town called,
 I will spell it -- P-i-e-s-t-a-n-y.
 - Q In what country is that?
 - A At the time of my birth this was in Hungary.
 - Q Are you a citizen of the United States?
 - A I'm a citizen of the United States.
 - Q How long, Mr. Neuwirth, have you been employed or associated with Geon Industries?
 - A Since the inception of Geon Industries, which 18 169.
- Q Prior to 1969 by whom were you employed, or, whom were you associated? Immediately prior to 1969?
 - A It was Geon International Corporation.
- Q Mr. Neuwirth, would you please briefly trace the history of your business career?
- A I am associated with this business, the automobile aparts industry, this is my 50th year in the same business.

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In 1924 I had my first job with the Ford Motor Company in France. Later on, with the help of the Ford Motor Company I came to the USA and I started my own business in 1934, I believe. Under my own name. There was no Geon.

Briefly from 1934 until the present you have--

A It developed, I developed the business slowly but surely over a period of years. First I did business under my own name, then George Neuwirth, later on I incorporated and it became George Neuwirth, Inc., and then still on I made it Geon International Corporation.

I was the sole owner and I was a private company.

THE COURT: Geon means George Neuwirth?

THE WITNESS: Right.

Q In May of 1969, Mr. Neuwirth, Geon Industries became a public company; is that correct?

A That's correct.

Q In September of 1971 Geon was listed for trading on the American Stock Exchange; is that correct?

A That's correct, Mr. Strum.

Q In the year 1969, Mr. Neuwirth, when Geon Industries went public do you know what the sales of Geon were at that time for that year?

A I do not know it precisely.

Q Would you take a guess?

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Neuwirth-cross

A \$8,000.

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Q Was it in the area of eight or ten million dollars in sales?

A Eight or ten million dollars, yes.

Q And for the year 1973, this past year, do you know approximately what the sales of Geon Industries were?

A I know. It was \$48,000,000.

Q You testified earlier that you are a shareholder of Geon. My question is, Mr. Neuwirth: when was the last time you sold any shares of Geon, and under what circumstances?

A I bought hundred shares of Geon stock the day we were listed on the American Stock Exchange. It seems to me it is a custom that the chief executive of that company makes the first trade.

As soon as it was legally feasible, three or six months later, I sold these hundred shares.

THE COURT: Legally feasible, you mean taxwise?

THE WITNESS: No, no. There is some rules applying-
THE COURT: On, 16B? They don't know what the rule
is. 16B. All right. So you waited six months.

THE WITNESS: Right.

THE COURT: Did you make some money on it?
THE WITNESS: I think I did.

THE COURT: Good.

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1	mh89 Neuwirth-cross
2	Q So that your last sale of Geon stock was approxi-
3	mately six months after September of 1971?
4	A That's right.
5	Q On how many other occasions have you sold shares
6	of Geon before that?
7	A My only sale of shares was at the public underwriting.
8	Q This was in 1971; is that correct?
9	A Right.
10	THE COURT: In other words, you contributed some
11	of the shares that were offered to the public; is that right?
12	THE WITNESS: That's right, your Honor.
13	Q Do you have a brokerage account?
14	A I do not have a brokerage account.
15	Q You testified that during October you made a
16	trip to England, I think you testified that you arrived on
17	October 15th?
18	A In England.
19	Q Yes. What did you do for the entire first week
20	that you were in England?
21	A This was the motor show, motor show started the
22	15th or the 16th. And I met with executives of certain
23	companies with whom we are in steady and substantial business.
24	They either came to my hotel or I went to their hotel, or
25	we met at the show at their booth.

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Neuwirth-cross

	Q	So that a week elapsed between the time you arrive
in	England	and the time that you described when you went
out	to see	Burmah at Swinden; is that correct?

A That's correct.

Q Am I correct, Mr. Neuwirth, that the first time you participated in any negotiations with Burmah was during the week of December 17th?

MR. DRAKE: Your Honor, I object.

THE COURT: I think you can ask him that question,

MR. STRUM: Your Honor, I didn't hear the basis of the objection.

THE COURT: Read me the question.

MR. DRAKE: I think he is just asking the witness to agree with him.

THE COURT: What is the question? (Question read.)

THE COURT: You can answer that?
THE WITNESS: Yes.

BY MR. STRUM:

Q Direct your attention, Mr. Neuwirth, to the board of directors' meeting of Geon that took place in November of 1973, November. Did you make any statement to the board of directors of Geon in November, 1973, concerning your continued responsibilities at Geon?

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1	mm):92 Neuwirth-cross
2	November you decided not to do in December; is that correct?
3	A Yes, Mr. Strum.
4	Q Mr. Neuwirth, do you know a man by the name of
5	Marvin Rauch?
6	A I do.
7	Q You described meeting with Mr. Rauch this morning
8	at an annual meeting and possibly a second annual meeting.
9	And you described this morning have lunch with Mr. Rauch in
10	November.
11	Have you met with Mr. Rauch on any other occasion
12	ever?
j 3	A I have not
14	Q Has Marvin Rauch ever come to your office?
15	A He has not.
16	Q Have you ever gone to his office?
17	A I have not.
18	Q Have you ever gone to his home?
19	A . I have not.
20	Q Has he ever been to your home?
21	A No.
22	Q Prier to December 3, 1973, Mr. Neuwirth, the day
23	that the announcement appeared with regard to discussions
24	between Geon and Burmah, did you ever discuss with Mr. Rauch
25	a possibility that Geon might be acquired by any othercompany?

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2	mah93

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Neuwirth-cross

A	I	110	no	t.

- Q You testified this morning about the lunch you had with Mr. Rauch in November, and you testified, I believe that upon that occasion you gave Mr. Rauch a brochure of some sort?
 - A Yes, I did.
 - Q With regard to the Ultra program?
 - A That's correct.

MR. STRUM: May I have this marked, please.

(Defendant Geon Exhibit & marked for identification.)

BY MR. STRUM:

- Q Mr. Neuwirth, I show you what has been marked as Defendant's Exhibit A for identification, and I ask you if this is a Geon brochure (handing).
 - A This is a Geon brochure.
 - Q Was that brochure publicly disseminated?
 - A We printed --

THE COURT: I didn't hear the answer, sir.

THE WITNESS: I say we must have printed 15 to 20 thousand copies of this brochure.

Q Is that a copy of the brochure that you gave to Mr. Rauch upon the occasion of your lunch in November?

A This is correct. This is the copy of it. This is the brochure.

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Q At that time, Mr. Neuwirth, was the Ultra program well known in the automobile trade?

A It was advertised in practically the major trade papers. Actually this same brochure was an insert in many of them.

MR. STRUM: Your Honor, I offer this in evidence.
THE COURT: Is there any objection?

MR. DRAKE: We don't know if that's a copy or not, your Honor. It's not dated, but I den't think we have any objection.

THE COURT: All right. He said that is the one he gave Mr. Rauch. Very well.

(Geon Exhibit A received in evidence.)

BY MR. STRUM:

Q Mr. Neuwirth, at any time did you ever inform

Marvin Rauch of the status of the negotiations or discussions
between Geon and Burmah?

A I did not.

Q Did you ever recommend to Mr. Ranch that he purchase Geon stock, or bought Geon stock?

A I did not.

Q Mr. Neuwirth, I would like to direct your attention if Immy to the board of directors' meeting of Geon held on February 21, 1974.

mmh95 Neuwirth-cross At that meeting, was there any discussion to the effect that it was common knowledge in Wall Street that a board meeting was being held to deal with the Burmah contract? There was none. In February, 1974, Mr. Neuwirth, did you ever Q speak to any analysts during that month of February --I did not. This morning on direct testimeny you said you think you may have told a couple of analysts that there was going to be a board meeting of Geon. ment to any analyst?

Do you have any recollection of making that state-

I have no recollection of that fact whatsoever.

This morning you adverted to a Mr. Hess and a Mr. Q Lazarus. They are related to you in some way?

Yes, they are. A

How is that? Q

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Both of them are brother-in-laws of my wife.

And you know them to be shareholders of Geon, do you not?

I know them to be shareholders. A

How many shares do you understand Mr. Hess owns? Q

To the best of my knowledge it's about 6,000 shares.

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE FOLEY SQUARE, NEW YORK, N.Y. CO 7-4580

1	mmh96 Neuwirth-cross
2	Q How about Mr. Lazarus?
3	A I believe he owns 9,000 shares.
4	Q To your knowledge, Mr. Neuwirth, did either Mr.
5	Hess or Mr. Lazarus buy or sell any Geon shares on
6	February 22, 1974?
7	A They did not.
8	THE COURT: I would like to expand that question.
9	Did Lazarus or Hess buy or sell any shares of Geon during
10	this period when you were negotiating with Burmah?
11	THE WITNESS: To the best of my knowledge, your Hono
12	they didn't.
13	THE COURT: But you don't know that they didn't.
14	THE WITNESS: We never discussed it.
15	THE COURT: You never discussed it. All right.
16	MR. STRUM: Your Haner, I have no further questions.
17	TRA COURT: All right. Do you have any further
18	questions, Mr. Drake?
19	MR. DRAKE: Yes, your Honor.
20	REDIRECT EXAMINATION
21	BY MR. DRAKE:
22	Q Mr. Neuwirth , to your knowledge did Mr. Marvin
23	Rauch purchase or sell Geon shares from November, 1973, until
24	February, 1974?
25	A I have no knowledge there.

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Neuwirth-redirect

To your knowledge did Mr. Roy Alpert purchase or sell Geon shares from Nevember, 1973, until February 22, 1974?

- He told me at one time he purchased some shares.
- During that period? THE COURT: You don't remember that,

THE WITNESS: Oh, I don't remember that at all.

How do you have knowledge of what Mr. Hess pur-Q chased or sold during this period?

THE COURT: He didn't say that he did. He didn't say that he did. He said so far as he knew he had not. He didn't say that he had any knowledge.

MR. DRAKE: I believe the question was: To your knowledge did he purchase, and he answered no. I think Mr. Strum --

> THE COURT: You're talking about Hess and Lazarus? MR. DRAKE: Yes, your Honor.

THE COURT: No, he didn't say any such thing at all. He said that Hess had purchased 6,000 shares and Lazarus 9,000 shares and as part of the question whether they bought or sold any during this period, he said he had no knowledge of that. He didn't know whether they did or whether they didn't, I take At.

> MR. DRAKE: I have no further questions, your Honor. THE COURT: All right. Thank you, Mr. Neuwirth, you

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1	mmh98 Alperto-direct
2	are excused.
3	(Witness excused.)
4	MR. DRAKE: The plaintiff would like to call Mr.
5	Roy Alpert.
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7	ROY ALPERT, called as a witness, having been duly
8	sworn, testified as follows:
9	MR. DRAKE: Your Honor, I would just like to point
10	out to the court that Mr. Alpert has consented to the entry
11	of the injunction, but it has not been signed by the court.
12	THE COURT: Yes, I have that.
13	DIRECT EXAMINATION
14	BY MR. DRAKE:
15	Q State your name please, sir.
16	A Roy Alpert.
17	Q Who is your address, Mr. Alpert?
18	A 343 Chicken Valley Road, Glenhead, Long Island.
19	Q What is your occupation?
20	A I am in the real estate and building business.
21	Q Mr. Alpert, do you know Mr. George Neuwirth?
22	A Yes, I do.
23	Q Hew long have you known Mr. Neuwirth, sir?
24	A About 15 years.
25	Q Do you know what business Mr. Neuwirth is in?

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-1	mmh99 Alpert-direct	
2	A Yes, I do.	
3	Q What is that business?	
4	A The selling of spare of parts for foreign cars	
5	basically.	
6	Q Do you know what the name of the business is	
7	associated with is?	
8	A Yes, sir, I do.	
9	Q What is that, sir?	
10	A Geon Industries.	
11	Q Do you know his position at Geon Industries?	
12	A He's chairman of the board of the company.	
13	Q Are you a social acquaintance also of Mr. Neuwirth	18.
14	sir?	
15	A Yes, I am.	
16	Q Do you see him frequently?	
17	A Yes, I do.	
18	Q How frequently, sir?	
19	A About twice a week.	
20	THE COURT: Well, I am a little confused. You say	
21	"also." Are you a business associate as well?	
22	THE WITNESS: Well, we were involved in one business	
23	venture together.	
24	THE COURT: When was that?	
25	THE WITNESS: About three years ago.	
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1	mmh99	Alpert-direct
2	A	Yes, I do.
3	Q	What is that business?
4	A	The selling of spare of parts for foreign cars
5	basical	
6	Q	Do you know what the name of the business is
7	associate	ed with is?
8	A	Yes, sir, I do.
9	Q	What is that, sir?
10	A	Geon Industries.
11	Q	Do you know his position at Geon Industries?
12	A	He's chairman of the board of the company.
13	Q	
14	sir?	Are you a social acquaintance also of Mr. Neuwirth's
15	A	
16		Yes, I am.
17	Q	Do you see him frequently?
18	A .	Yes, I do.
19	Q	How frequently, sir?
20	A	About twice a week.
		THE COURT: Well, I am a little confused. You say
21 22	"also."	re you a business associate as well?
		THE WITNESS: Well, we were involved in one business
23	venture to	gether.
24		THE COURT: When was that?
25		THE WITNESS: About three years ago.

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1	mmh100	Alpert-direct
2		THE COURT: Since then your contacts with him have
3	wen soci	al rather than business?
4		THE WITNESS: That's correct.
5		THE COURT: All right.
6	BY MR. DR.	AKE:
7	Q	Just one question about that, Mr. Alpert. Is that
8	business	association a continuing one?
9	A	Yes, we went into a joint venture together. We
10	built an	office building and each had a proportionate share
11	of the but	lding.
12	Q	You are still participating in that venture even
13	until tods	y, sir?
14	A	That's correct.
15	9	Mr. Alpert, have you ever owned any shares of Geon
16	Industries	?
17	A	Yes.
18	Q	When did you first purchase your shares of Geon?
19	A	When the company went public.
20	Q -	Do you recall when that was sir?
21	A	I think it was in 1969.
22	Q	How many shares did you purchase then, sir?
23	- A	250 shares.
24	Q	Is this in your own account?

That's correct.

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1	mmhl0l Alpert-direct
2	Q Did any other members of your family purchase
3	any Geon shares at that time?
4	A No, sir.
5	Q When was your next purchase of Geon shares, Mr.
6	Alpert?
7	A I believe it was in October of 1973.
8	Q Between 1969 and your initial purchase in October
9	of 1973 you purchased no Geon shares?
10	A I didn't, no. My wife did.
11	Q Your wife purchased some?
12	A Yes.
13	Q Whendid she purchase some shares?
14	A I would say some time in 1972.
15	Q Mr. Alpert, do you belong to the same country club
16	as Mr. George Neuwirth?
17	A Yes, I do.
18	Q What is the name of that club sir?
19	A Fresh Meadow Country Club.
20	Q Some time prior to
21	THE COURT: Wait a minute. We are getting off.
22	I thought you had asked a minute ago, you should stick to it,
23	you said something about did he buy some shares in October
24	of 1973, and you said you did.
25	THE WITNESS: Yes, I did.

	1	rmh102 Alpert-direct
	2	THE COURT: How many shares did you buy?
	3	THE WITNESS: I think about 2,600 shares.
	4	THE COURT: All right.
	5	Q When did you buy those shares, sir?
	6	A In October.
	7	THE COURT: October of 1973.
	8	Q Was it October 15th?
	9	A It might have been. Around that time.
	10	Q Prior to the date that you purchased those shares
	11	did you have a conversation with Mr. George Neuwirth at
	12	the Fresh Meadows Country Club, sir?
	13	A I believe I did.
	14	Q Do you recall the substance of that conversation?
b41	15	A Yes. I believe that some during a social evening
	16	Mr. Neuwirth had mentioned something to the effect that
	17	there was an acquisition or a sale taking place in his
	18	business.
	19	Q Where did this conversation occur, sir?
	20	A To the best of my recollection it was at a bar
	21	at the club. I can't pinpoint the exact place.
	22	Q Do you recall if anyone else was present at that
	23	time?
	24	A No, I don't.
	25	Q You don't recall?

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mmh103 Alpert-direct

A No. I don'trecall.

Q The fact that Mr. Neuwirth told you that Geon was in the process of maybe being acquired by somebody, did that lead you to make your purchases in October of 1973?

MR. STRUM: I object, your Honor. The witness testified to what Mr Neuwirth said and Mr. Drake's question assumes an entirely different question.

THE COURT: Would you read that question, Mr. Reporter?

(Question read.)

THE COURT: Well, I will sustain the objection to the form of that question. If you can answer, Mr. Alpert, whether this conversation you had at the bar at this country club with Mr. George Neuwirth, did that lead you to buy some stock?

THE WITNESS: It might be part of the reason.

THE COURT: Part of the reason. That was one of the reasons.

THE WITNESS: Yes.

THE COURT: All right. What were the other reasons?

THE WITNESS: The other reason was that over a period of years I knew that Mr. Neuwirth had a very successful solid business.

THE COURT: So it looked good to you?

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Alpert-direct

THE WITNESS: That's correct.

THE COURT: All right.

BY MR. DRAKE:

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Q What was the time frame, sir, between the time

Mr. Neuwirth told you that and the date of your purchase?

THE COURT: You Washington fellows are something.

You are always talking about time frames.

How long after this conversation did you buy this stock?

THE WITNESS: I don't know. I would assume it was within a reasonable time afterward.

THE COURT: Well, what do you mean by a reasonable time?

THE WITNESS: Within a week perhaps. I don't know.

THE COURT: Within a week. All right.

THE WITNESS: I would say.

BY MR. DRAKE:

Q Did you now Mr. Neuwirth was going to London?

A Did I know Mr. Neuwirth was going to London?

Mr. Neuwirth went to London quite frequently, and it is very possible I did know he was going to London.

Do you recall whether or not he told you he was going to London?

A No.

1	mmh105 Alpert-direct 325
2	Q Mr. Alpert, do you recall whether or not you
3	purchased 2,000 shares of Geon's common stock on October 15th?
4	THE COURT: He said 2,600.
5	A I said approximately 2,600.
6	Q All right, sir.
7	Now, are you in business with your brothers, Mr.
8	Alpert?
9	A Yes, I am.
10	THE COURT: What is your brother's name?
11	THE WITNESS: I have two brothers. Irving Alpert
12	THE COURT: Which one are you in business with?
13	THE WITNESS: I am in business with both of them
14	since 1933.
15	THE COURT: All right. Irving, and what is the
16	other one's name?
17	THE WITNESS: Edward.
18	Q To your knowledge, sir, did they also purchase
19	Geon stock?
20	A Yes, they did.
21	Q Did they also purchase somewhere around October 15th,
22	the same time you did?
23	A Approximately that date, yes.
24	Q Did you tell them what Mr. Neuwirth told you
25	about the possible acquisition, sir?

from him. I purchased some from him, and some from somebody

I don't recall whether all of them were purchased

were purchased?

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	327
1	mmh107 Alpert-direct
2	else.
3	Q Let me direct your attention, Mr. Alpert, to
4	the events surrounding December 17th.
5	Do you know if that day is Mr. Neuwirth's birthday?
6	A Yes, I do.
7	Q Was there a birthday party planned for Mr. Neuwirth?
8	A Yes, there was.
9	Q Was the birthday party held?
10	A No, it wasn't.
11	Q Do you know why it was not held, sir?
12	A Well, there were the basic reason why it
13	wasn't held, it was a tremendous storm on the 17th, and
14	we live about 30 miles from New York, and Mr. Neuwirth was
15	in New York at that time and we couldn't have gotten in
16	no matter what.
17	Q Did you have any conversations with Mr. Neuwirth
18	as to his availability for that birthday party?
19	A Me personally?
20	Q Yes, sir.
21	A No, I didn't.
22	Q Did Mr. Neuwirth perhaps call you from Chicago
23	some time prior to December 17th?
24	A Not to my knowledge, no. I never spoke to him
25	in Chicago to my knowledge.

1	mmh108 Alpert-direct
2	Q Did he ever tell you
3	THE COURT: You don't recall his calling you
4	and saying no birthday party this year?
5	THE WITNESS: No.
6	THE COURT: No recollection.
7	THE WITNESS: The birthday party was scheduled for
8	the 17th.
9	Q Do yourecall, sir, whether or not prior to
10	December 17th, whether Mr. Neuwirth told you he was busy
11	closing the deal?
12	A He didn't tell me he was busy closing a deal.
13	I knew that he was in New York on a business some kind
14	of a business appointment.
15	THE COURT: Do you remember how you learned that,
16	when you learned that for the first time?
17	THE WITNESS: No. I just remember that he was in
18	the city on a deal, on something that was very important,
19	and he thought it might be difficult for him to make the
20	party even if we could make it.
21	THE COURT: Well, did you hear that from him?
22	THE WITNESS: I probably heard it from my wife.
23	Q You don't recall Mr. Neuwirth telling you that,
24	sir?
25	THE COURT: He said he doesn't. We have been

	329
1	mmh109 Alpert-direct
2	through that.
3	A No.
4	THE COURT: He doesn't.
5	Q I would like to call your attention Mr. Alpert,
6	to your testimony before the Securities and Exchange
7	Commission, this is at page 29.
8	"Q You satisfy an inclination, then?
9	Mr. Borden: I think he can answer it better.
10	The Witness: I knew that George's 70th birthday
11	was on the 17th of December, and we were going to celebrate
12	George's birthday by going, and he was in New York City,
13	and George told me that he was so busy that he didn't know
14	whether he would be able to meet, keep the date on the 17th
15	to celebrate his 70th birthday, which was a big event to him.
16	We see each other, as I said before, once a week,
17	and we have dinner, and so forth. And this led me to believe
18	that therewas some kind of business transaction being
19	held at that time, and I at this point decided that it might
20	be a good idea for me to buy more stock."
21	Is that your testimony, sir?
22	A Yes, it is.
23	Q Did you subsequently buy more Geon stock?
24	A Yes, I did.
25	

When was that, sir?

		330
1	mmh110	Alpert-direct
2	A	Some time after that meeting was taken had
3	taken pl	ace. The exact date I don't remember.
4	Q	Could it have been
5	7	I would say it was around December 19th, something
6	like tha	t.
7	Q	How many shares did you purchase that day, sir?
8	A	A thousand shares.
9	Q	Did your brothers purchase any Geon stock that day,
10	sir?	
11	A	I don't know whether they did it that day. They
12	did it a	round that time.
13	Q	Do you know how many shares they purchased?
14	A	I believe they each purchased a thousand shares.
15	Q	Did you tell them what Mr. Neuwirth had related
16	to you, s	sir?
17	A	Probably.
18		THE COURT: Does that testimony refresh your
19	recollect	ion that George told you he was
20		THE WITNESS: I would say it does.
21		THE COURT: That refreshes it. So now your
22	testimony	is that he did tell you.
23		THE WITNESS: That's correct.
24		THE COURT: Does it refresh your recollection
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as to how he told you? Did he telephone you or something

	551
1	mmh 111 Alpert-direct
2	like that?
3	THE WITNESS: I don't remember how he told me.
4	I just remember that I knew it.
5.	THE COURT: All right.
6	BY MR. DRAKE:
7	Q Let me direct your attention now to the evening
8	of, I think it was Wednesday, February 20, 1974.
9	Did you have dinner with Mr. Neuwirth, Mr.
10	George Neuwirth that evening?
11	A Yes, I did.
12	Q Where did you have dinner that evening, sir?
13	A At Peter Luger's in Great Neck.
14	Q Who was present, sir?
15	A My wife, Mr. Neuwirth and Mr. Neuwirth's wife.
16	Q During the course of that dinner did Mr. Neuwirth
17	tell you about an impending board of directors' meeting of
18	Geon?
19	A Yes, he did.
20	Q What did he say, sir?
21	A He said that the board was meeting the following
22	afternoon to wrap up the deal with Burmah, I believe at
23	that time. I believe at that time he knew it was Burmah.
24	Q All right, sir.
25	How did the conversation come up? Did you ask him,

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how is business, or what?

A I don't know how the conversation came up. I believe that during the course of sitting around at dinner he mentioned it to me.

Q Was there any mention that he would call you the next day?

A No.

Q Did he indicate that he would get in touch with you and tell you the result of the board of directors' meeting?

A Not really, no.

THE COURT: Did you ask him to?

THE WITNESS: No. I didn't.

Q Let me refer you, sir, to your testimony before the Securities and Exchange Commission, this is at page 31, line 23:

"Q Did he indicate that he would call you and let you know the results of that?

"A I assumed he would call me. I really don't know whether he said it or not."

Is that correct, sir?

A I don't remember. Yes, I assume that's what I just said before.

THE COURT: Well, the point is, you did assume

1 mmh113 Alpert-direct after this dinner that he was going into town he was going 2 b42 to let you know how it came out. 3 THE WITNESS: I assumed that it was such an im-4 portant event that if he signed the papers, if the deal 5 6 was going through, I assumed that he would call me and I 7 would congratulate him and so forth. 8 MR. STRUM: Your Honor, I move to strike the 9 testimony as to what Mr. Alpert assumed. 10 THE COURT: I will let it stand. 11 BY MR. DRAKE: 12 Mr. Alpert, you hear anything from Mr. Neuwirth 13 on Thursday, February 21, 1974, sir? 14 A Thursday? 15 Yes, sir. You had dinner Wednesday evening; is 16 that correct? 17 A Yes, that's right. 18 The following day was Thursday. Q 19 A Right. 20 And you knew Mr. Neuwirth was going to a board Q 21 meeting that day. 22 Right. 23 Q All right, sir. 24 Now, did you hear anything from him, or have 25 any conversations with him on Thursday evening?

1	mmh114 Alpert-direct
- 2	A No, I didn't.
3	Q Friday morning, sir, this is February 22, 1974,
4	had you heard anything from Mr. Neuwirth yet?
5	A No, I hadn't.
6	Q You had no conversation with him at all?
7	A No, sir.
8	Q What did you do that morning, Mr. Alpert?
9	A Well, I went to the office, as I normally do,
10	and I met with my brother at about 9:30, I guess it was,
11	or possibly a little earlier, and told him that I had
12	an appointment with the eye doctor at 10 o'clock and that
13	I was quite concerned over the fact that I hadn't heard
14	from Mr. Neuwirth. And I suggested to him that we sell half
15	our stock.
16	Q What did he say, sir?
17	A We discussed it for a minute, and he agreed with me
18	Q So what did you then do, sir?
19	A Then I went to the eye doctor.
20	Q What time did you leave, sir?
21	A I would say about a quarter to 10.
22	THE COURT: Was this on Thursday or Friday that
23	we're talking about?
24	MR. DRAKE: This is on Friday, your Honor.
25	THE WITNESS: Friday. Friday morning.

	335
1	mmhll5 Alpert-direct
2	THE COURT: The 22nd.
3	MR. DRAKE: Yes, your Honor.
4	Q Do you know if he sold that stock?
5	A I subsequently knew, yes.
6	THE COURT: Did he sell the stock for all of you?
7	He sold half of your holdings?
8	THE WITNESS: Well, I knew it later. I didn't know
9	it then, when I left I didn't know what was going to happen.
10	THE COURT: You thought it would be a good idea
11	and he thought it would be a good idea?
12	THE WITNESS: To sell half of it.
13	THE COURT: Then you found out that he sold half
14	of yours and half of his?
15	THE WITNESS: When I went to the eye doctor, I
16	didn't get to the eye doctor until about a quarter to 12,
17	I went with my wife, we both had an examination. My wife
18	suggested that we go to the club and have lunch, at which
19	point I called my brother and asked him to meet us. He
20	told me that he had sold half the stock.
21	THE COURT: In all the accounts?
22	THE WITNESS: In all the accounts.
23	THE COURT: Which brother was this?
24	THE WITNESS: This was Irving.
25	THE COURT: Irving.

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THE WITNESS: And he said that after he had sold half the stock at 14%, I believe, that the broker called him back and said he could sell the balance that we had, which was another 4,000 or 4,200 sh ares for 14-3/8, and he took it upon himself to sell the rest of it.

THE COURT: Who was the broker?

THE WITNESS: The broker was Arthur Gould.
BY MR. DRAKE:

Q How much profit did you realize on that transaction, sir?

A Did I?

Q Yes.

A I didn't realize any profit. At the time I realized a profit.

Q How much was that, sir?

A I believe it was about \$9,000.

Q Let's start with relative to the anticipation of a phone call, sir --

MR. DRAKE: Your Honor, I just want to make sure this issue is clarified.

I would like to call your attention, sir, to page 14 of your testimony before the Securities and Exchange Commission, beginning with line 2.

"Q Can you tell me what news you were anticipating?

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Alpert-direct

"A Well, I was anticipating a call from George telling me that the papers were signed and everything was at it should be.

"Q Can you tell me why you were" -- and it says expected -- "the call from George?

"A I think, I know if I were in the position I would have called him and told him that the deal was going through. He might have mentioned it to me. He might have even mentioned it to me. I really don't recall whether he did or not."

Was that your testimony then, sir?

A Evidently it is.

MR. DRAKE: All right, sir. I have no further questions of this witness.

THE COURT: All right. Are there any questions, Mr. Strum?

MR. STRUM: Yes, your Honor.

CROSS EXAMINATION

BY MR. STRUM:

Q Mr. Alpert, I would like to direct your attention to, first to the dinner you had with Mr. Neuwirth on the evening of Wednesday, February 20th. You have testified that Mr. Neuwirth told you that he was going to go to a board meeting the following day at which he believed the

1	mmhll8 Alpert-cross
2	Burmah contract would be approved; is that correct, sir?
3	A That's corre
4	Q And you took that to be good news about Geon,
5	I take it?
6	A I did.
7	Q This was in your view in the interest of Geon,
8	it was a good thing for
9	THE COURT: Well, wait a minute. Not only the
10	interest of Geon, he thought it was a good deal from the
11	point of view of the stockholders of Geon.
12	MR. STRUM: I prefer that question, your Honor.
13	THE COURT: All right.
14	You thought from your point being a stockholder
15	that was good news?
16	THE WITNESS: That's correct.
17	THE COURT: All right.
18	Q Mr. Alpert, did you buy any stock on February 22nd?
19	A No, I didn't.
20	Q You didn't buy any stock. If I recall correctly,
21	Mr. Neuwirth did not say he was going to call you after the
22	hoard meeting, did he?
23	A Not to my knowledge, no.
24	Q And you didn't ask him to call you after the
25	board meeting?

1	mmhl19 Alpert-cross	
2	A No, I didn't.	
3	Q And in fact he didn't call you after the board	
4	meeting?	
5	A That's correct.	
6	Q And you didn't speak to him on Thursday?	
7	A No.	
8	Q And you didn't speak to him on Friday?	
9	A No.	
10	Q Is that correct, sir?	
11	A That's correct.	
12	Q And therefore the shares that you sold on Friday	
13	and by you, sir, I am referring to both you and your	
14	brothers those sales were not based on anything Mr.	
15	Neuwirth had told you, were they?	
16	MR. DRAKE: Objection.	
17	THE COURT: I will sustain the objection to that	
18	question.	
19	Are you an investor? Do you like to buy and sell	
20	in the stock market? Do you do it much?	
21	THE WITNESS: That's a relative term. I do it,	
22	not to a great degree, no.	
23	THE COURT: Not to a great degree.	
24	THE WITNESS: No.	
25	THE COURT: You said you had two brokers.	

1	mmh Alpert-cross 340
2	THE WITNESS: Yes.
3	THE COURT: You trade every week, or
4	THE WITNESS: No. No.
5	THE COURT: Nothing like that?
6	THE WITNESS: No.
7	THE COURT: Just on occasion?
8	THE WITNESS: Yes.
9	THE COURT: Something looks good to you?
10	THE WITNESS: Yes.
11	THE COURT: A good buy or a sale?
12	THE WITNESS: That's correct.
13	THE COURT: Only on occasion.
14	THE WITNESS: I'm not a trader.
15	THE COURT: All right.
16	BY MR. STRUM:
17	Q You testified Mr. Alpert, that you purchased
18	some Geon shares back in October of 1973.
19	Did Mr. Neuwirth suggest to you that you should
20	buy some Geon stock?
21	A No, he never suggested it.
22	Q Before you bought the stock did you tell Mr.
23	Neuwirth you were going to guy the stock?
24	A No, I didn't.
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Mr. Alpert, you have testified before the SEC

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in this matter; is that correct, sir?

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A Correct.

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Q I am going to ask you if you recall being asked some particular questions and giving particular answers,

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and I am going to start with a question that begins at line

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24 of page 24.

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"Q Now, if I can back up a moment for a whole new

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topic with respect to the purchases which you indicated

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that you made during September-October, 1973, what factors

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did you consider in making those purchases?

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"A Well, for one thing I knew that Geon Industries had a good business and, secondly, I heard probably from Mr. Neuwirth that they were considering some kind of a -- either an acquisition or a sale which led me to make some

Do you recall, sir, being asked those questions and giving those answers?

A Yes, I do.

of the purchases."

Q Now I am going to ask you if you recall being asked the next question and another answer. I am going to start reading at page 27, line 19.

"Q My question to you, Mr. Alpert, with respect to your purchases in September and October and what factors were considered, and I believe that you indicated, I'm not

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sure I have got them all, that Geon was a good company and that you had heard perhaps that -- from George -- that they were considering either an acquisition or sale.

A Right.

Q Was this an acquisition of Geon by someone, or sale of Geon to someone?

A I don't know. I just knew something was going on and I thought that I -- "And then the question interrupts the answer, and the question continues, "Can you refine it down for us a little bit more as to what it was that you thought was going on? You knew the company wasn't going bankrupt.

"A Right.

"Mr. Borden: What you remember. Not what you think you remember. What you do remember.

"Mr. McOnihe: Right.

"The Witness:" -- referring to you -- "I would think that I -- I imagine I heard George say that they were in the process of being acquired by somebody. I don't know. I am going back, four, five months and we are talking about --

- Q That's the best you can recollect?
- A I would say so."

Do you recall being asked those questions and

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THE COURT: All right. Thank you.

(Witness excused.)

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MR. DRAKE: Mr. Siegler was an employee of Geon Intercontinental, and the portion of the testimony that I wish to introduce relates to a conversation he had with Mr. George Neuwirth on February 22, 1974.

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THE COURT: How long is this thing you want to

read?

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MR. DRAKE: Your Honor, very few minutes. Three pages.

MR. STRUM: May I be heard on my objection, your Honor?

THE COURT: Yes, you may. What is your objection?

MR. STRUM: Well, as I understand Rule 32A of the

Federal Rules of Civil Procedure a deposition taken of

someone at a time when counsel for Geon, Bloom and Neuwirth

were not present, is, as I read that rule, under no circum
stances admissible against any of those defendants.

I cannot conceive of any rule of law which would permit the introduction of this hearsay testimony never having been subjected to cross-examination, taken at a time when I was not present as admissible against my clients.

THE COURT: What do you say about shat?

MR. DRAKE: Your Honor, we think this is an application for a preliminary injunction and it is our conceded opinion based on Professor Moore and other authorities that the court could consider all relevant evidence to get the facts before it in such a hearing, including hearsay evidence. Now, this testimony is under oath.

THE COURT: I think I will hear it and you are not waiting anything, maybe I shouldn't pay any attention

THE COURT: All right, go ahead.

THE COURT: This is March 22, 1974?

MR. DRAKE: February 22nd, your Honor.

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1	mmn 349
2	MR. DRAKE: "A I did speak to him, yes.
3	"Q Why did you go to Mr. Neuwirth's office?
4	"A I didn't go to him, he called me in.
5	"Q Mr. Neuwirth called you in?
6	"A Right.
7	"Q Why did he call you in?
8	"A Why he called me in?
9	"Mr. Shiff: I assume when you ask a question
10	like why you really want to know what went on. You meant
11	what the purpose was?
12	"Mr. Drake: What did Mr. Neuwirth say? Did he
13	call you and say you come see me, or what?
14	"Q Did Mr. Neuwirth call you, sir?
15	"A Yes.
16	"Q When did he call you?
17	"A We have a signal, if he wants me to call him
18	back on the telephone we have a buzzer. He buzzes me once.
19	And if he wants me to come into his office, he buzzes me
20	twice.
21	"Q So he buzzed you twice?
22	"A He buzzed me twice.
23	"Q But he didn't say anything?
24	"A No.
25	"Q So you didn't know?

So you didn't know?

A few minutes before, a few minutes after.

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"Q

"A I said what happened? He says, the figures don't jibe. I said, what do you mean? He said, they don't job. But, he says, please don't worry about your retirement, hesays I will take care of you until things straighten out, and so forth.

"Q Was he upset?

Go ahead.

"A I would say he looked a bit upset, yes.

"Q Did this upset you?

"A Yes, it did. It made me feel very bad. I know the man all these years.

"Q What was the nature of his concern about your retirement?

"A Well, because I'm right now, I have been with him all these years and he knows I have been planning on it for quite a while, and I am there only at his request at the present time because they couldn't get a replacement. I guess that was it, and he just assured me. He said, don't you worry about it, you go out until things settle, he said, we'll take care of you. Don't let it interfere with your plans for retirement."

THE COURT: Well, isn't all that just what Mr. Neuwirth said? What is the difference--

MR. DRAKE: There is two differences, your Honor.

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Mr. Neuwirth testified that Mr. Siegler came into his office, he didn't call him. Secondly, I'm not quite --

THE COURT: This doesn't make a darn bit of difference. It seems to me it's just the same thing Mr. Neuwirth testified here.

MR. DRAKE: Your Honor, I would like to continue a few more lines.

THE COURT: Well, go ahead, but I hope it's a little different. So far I haven't heard anything.

MR. DRAKE: "Q Did you tell him at that time you had already sold some Geon stock?

"A I didn't tell him anything, no. I didn't say anything to him.

"Q What do you recall your saying in that conversation?

"A I said, what, I asked him what happened. He says, the figures just didn't work out. I said, what was it? It didn't come up to the percentages. They didn't work out, or something to that effect. He didn't give me any numbers or figures. He was more interested in commiserating with my welfare at the time because he knew I was visibly upset because I'm depending on my shares for Geon to finance my retirement."

THE COURT: I guess that just corroborates what

mmh Mr. Neuwirth said. It doesn't make much difference. MR. DRAKE: I don't have Mr. Neuwirth's testimony in front of me. THE COURT: But I do have a strong recollection of it. Have you finished that? MR. DRAKE: Yes, your Honor. THE COURT: What's next? MR. DRAKE: We would just like to call Mr. Jim McMahon to the stand, please.

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Q Are you an accountant, Mr. McMahon?

it may tend to incriminate me.

I refuse to answer that question on the grounds

A I refuse to answer that question on the grounds it may tend to incriminate me.

Q Have you ever been employed by Geon Industries?

A I refuse to answer that question on the grounds it may tend to incriminate me.

THE COURT: Well, I guess that does it, doesn't it?
You are not going to answer any questions, are you? Are
you going to stand on your privilege?

THE WITNESS: That's correct, sir.

THE COURT: All right. I take it you are excused, Mr. McMahon.

MR. DRAKE: Your Honor, Mr. McMahon testified before the Commission. Under the circumstances, your Honor, the Commission would like at this time to offer the transcript of Mr. McMahon as an admission.

THE COURT: Do you have to offer it all? Is there some part of this thing that you think is relevant?

MR. DRAKE: Your Honor, what we would like to do is offer it all and point out to the court the specific sections we are going to rely on. It's an integral transcript to a certain extent, your Honor.

MR. STRUM: If the transcript is being offered against the defendant Geon, Neuwirth and Bloom, I object, your Honor, on the grounds I earlier expressed in that the

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testimony was taken at a time when I was neither present nor permitted to be present, therefore I have not had an opportunity to cross-examine Mr. McMahon.

THE COURT: Who represented Mr. McMahon at this proceeding?

MR. BERGER: I did, your Honor.

THE COURT: You did.

MR. STRUM: And I think under Rule 32 the testimony of Mr. McMahon taken before the SEC is not admissible as against defendants Geon, Neuwirth and Bloom, and I respectfully object to the admission of that transcript for that purpose.

THE COURT: All right. I have taken note of your objection, and I will have to look at the transcript and I will do that at some convenient interval, not now, and rule on it.

MR. STROM: Thank you, your Honor.

MR. DRAKE: Your Honor, our position is again that it is not only admissible on the trial on the merits, it can be considered by the court against all parties, your Honor.

THE COURT: All right. Maybe I will ask you to brief that somewhere along the line and give me a memo why you think your respective positions are sound. Will you

witness to identify his signature. And if he refuses to do so --

THE COURT: When will you ask him?

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MR. GORDON: Very well. Would you mark this for identification, please.

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(Witness excused.)

(Defendant Edwards & Hanly Exhibit A marked for identification.)

THE COURT: Now show it to the witness' counsel and let his counsel confer with the witness and see what he wants him to do about that. Don't do it in my hearing though.

All right, ask your question, Mr. Gordon.

MR. GORDON: Mr. McMahon, I show you Defendant Edwards & Hanly Exhibit A marked for identification, and I ask if you can identify your signature thereon (handing).

THE WITNESS: I refuse to answer that question on the grounds that the answer might tend to incriminate me.

MR. GORDON: If your Honor please, I think under these circumstances the Commission's position that there has never been a signed margin agreement is not a position which can continue to be maintained before this court.

THE COURT: I won't worry about that now. He just refused to answer. I am listening to testimony.

MR. GORDON: Very well.

THE COURT: All right. I take it Mr. McMahon you are excused.

THE WITNESS: Thank you, sir.

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will take whatever you have got.

1	mh Rauch-direct 360
2	MARVIN RAUCH, called as a witness in behalf
3	of the plaintiff, being first duly sworn, testified
4	as follows:
5	MR. ZELERMYER: Your Honor, I represent Mr. Rauch.
6	THE COURT: What is your name?
7	MR. ZELERMYER: I informed the Court on Monday
8	and the SEC
9	THE COURT: What is your name?
10	MR. ZELERMYER: Benjamin Zelermyer, your Honor.
11	THE COURT: All right.
12	MR. ZELERMYER: Mr. Rauch intends to invoke his
13	privilege as well, your Honor.
14	THE COURT: All right.
15	DIRECT EXAMINATION
16	BY MR. DRAKE:
17	Q State your name, please, sir?
18	A Marvin Rauch.
19	Q What is your address, Mr. Rauch?
20	A 1069 Channel Road, Hewlitt, Long Island.
21	Q Mr. Rauch, have you ever been employed by Edwards
22	& Hanley?
23	A On the advice of counsel I invoke my privilege
24	under the Fifth Amendment of the Constitution.
25	Q Do you know Mr. George Neuwirth?

1	mh Rauch-direct 361
2	A On the advice of counsel I invoke my privilege
3	under the Fifth Amendment to the Constitution.
4	Q Do you know Mr. James McMahon?
5	A On the advice of counsel I invoke my privilege
6	under the Fifth Amendment to the Constitution.
7	THE COURT: Do you know where you are this minute?
8	THE WITNESS: Yes, sir.
9	THE COURT: All right.
10	MR. DRAKE: Do you want me to continue, your Honor?
11	THE COURT: I don't think so. I take it you
12	have advised him that he won't answer anything, so we are
13	just wasting time.
14	MR. ZELERMYER: That's correct, your Honor.
15	THE COURT: Do you want him to identify something
16	fc. you?
17	MR. GORDON: No, sir. On behalf of defendant Edwards
18	& Hanly I move to dismiss these proceedings on the ground
19	that Mr. Rauch's testimony is essential to the defense of
20	their case.
21	THE COURT: You can do that at the end of the case.
22	MR. DRAKE: Your Honor, at this time the Commission
23	would like to offer the investigative transcripts of Mr. Rauch
24	THE COURT: Mark it for identification.
25	MR. STRUM: Your Honor, may I just say I have the
	The say I have the

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Rauch-direct

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same objection without elaborating.

THE COURT: Mark it for identification. I will consider that when I --

MR. DRAKE: Your Honor, I have two somewhat
worn copies, but I will substitute a ribbon original. Counsel,
you don't object to that, do you, substituting the copies
for the--

MR. STRUM: No.

MR. DRAKE: Two volumes.

(SEC Exhibits 16 and 16A marked for identification.)

MR. DRAKE: Copies have been filed with the Court, your Honor, also.

MR. GORDON: Your Honor, with respect to these exhibits, Edwards & Hanly joins in the objection that has been voiced by the other defendants.

THE COURT: Yes.

MR. DRAKE: Your Honor, with the Court's indulgence it is going to be just a few minutes before our next witness can get here. We anticipated there would be more extensive discussions, or more extensive questions concerning Mr. Rauch and Mr. McMahon's Fifth Amendment privilege.

THE COURT: I am going to ask you to brief that.

Well, all right, if you want to do that I have got lots

to do getting ready for this other one. I would just as

from college on, including college.

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A I went to Hofstra University, BA in economics, in 1968, and Baruch College, MBA majoring in financing in June, 1974.

Word you briefly outline your work experience since graduating from college?' A Yes. In October, 1968, I joined the American Stock

Exchange as a trading analyst in the membership compliance division, and about a year after that I was in that same division, and then about three months, or four months after that I became an assistant listing representative in the securities division of the American Stock Exchange.

Subsequent to that, listing representative and, subsequent to that, as senior listing representative.

You are now a senior listing representative; is that right?

Would you briefly outline the responsibilities of a senior listing representative?

Yes. Senior listing representative is responsible for a given number of companies that are listed on the exchange. It numbers about 200 or 250 companies. I would say closer to 250.

There are primarily three major areas of

responsibility. First is reviewing companies that are seeking listing on the exchange, viewing the financials of
the company and the business of the company, and any other
pertinent materials or facts bout the company which should
be taken into consideration to determine listing.

That would be the first major area. Second is a continuing review of those companies already listed, and that is focusing on our assigned number of listed companies which, as Isaid, numbers about close to 250.

The third area of responsibility is just a day to day relationship with those listed companies answering questions, responding to inquiries, facilities any announcements that a company may have, or reviewing and monitoring such announcements or problems or questions the company may have.

- Q Would you say this generally includes coordinating prompt disclosure of material facts to the public?
 - A Yes.
- Q In compliance with the American Stock Exchange rules?
 - A Yes.
- Q Mr. Gromet, I invite your attention to Friday morning, February 22nd. Tell us what if anything transpired concerning trading in Geon Industries shares that morning.

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balance, a substantial imbalance.

THE COURT: Was this before the opening? THE WITNESS: It was right about the opening, at about 10 o'clock.

Had trading opened yet in June?

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No, it had not.

Did you have any discussions with Mr. Foster concerning the opening of trading?

A Yes.

MR. STRUM: Your Honor, I am going to object to this line of questioning. I understand among other things Mr. Foster will be a witness. Soliciting this gentleman's statements as to what Mr. Foster said appears to me to be--

THE COURT: I think I will sustain the objection. You had this conversation with Foster and he told you about the imbalance. What did you do then?

THE WITNESS: Well, I then --

Before we leave that conversation, was there anything else that Mr. Foster told you concerning the opening?

A Yes. Mr. Foster --

MR. STRUM: I object, your Honor.

THE COURT: He can tell us that, What did he tell you about the opening?

THE WITNESS: Mr. Foster and I -- Mr. Foster requested first that I contact the company to find out if there were any corporate developments pending at the company that would account for the activity, or if there was any change in the status of the proposed Burmah merger.

mh Gromet-direct And Mr. Foster and I both agreed that the stock should not open and would not open until I called him back and advised him of my findings. THE COURT: You knew about the pending Burmah merge is that right? At the time. THE WITNESS: Yes, sir. THE COURT: And I guess Foster did, too? THE WITNESS: Yes, it had been announced previously BY MR. TIMMENY: What did you do, Mr. Gromet, when you spoke to Mr. Foster?

I have a little card index right next to my desk, and it has the phone numbers of most, or if not all of the companies that I am responsible for, and I opened it up and pulled out the Geon Industries card file and I didn't dial the number, we have a punch, a phone punch system, and I punched the number and called Frank -- called the company and asked for Mr. Frank Bloom.

> THE COURT: Had you talked to him before? THE WITNESS: Yes, that was not the first time. THE COURT: You had known him? THE WITNESS: I had known Frank before, yes. What happened after you dialed?

I got through to a woman who I believe was Mr.

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Bloom's secretary, asked for Mr. Bloom, and at first she told me that Mr. Bloom was not at his desk, or not in his office, and in any event a few minutes transpired at which time Mr. Bloom did get on the phone.

- Q What did you tell Mr. Bloom?
- A I advised Mr. Bloom that I was told just a moment or two ago by a floor official of the exchange that there was a substantial imbalance of sell orders in the stock of Geon, and that this imbalance totaled about ten to eleven thousand shares.

I asked Mr. Bloom if there were any corporate developments which would account for the activity, or if there was any change in the status of the proposed Burmah merger which may account forsell orders of the stock. That my first question to Mr. Bloom.

- Q Did Mr. Bloom respond at that point?
- A Yes.
- Q What did he say?
- A He said that there was no change in the status of the proposed merger transaction, and that there were no developments at the company which would account for selling. That was his initial response to me.
 - What then happened, if anything?
 - A We then got into a further discussion. Mr. Bloom

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said to me that the company, that Burmah -- he said the company, as I believe, meaning Burmah, and Geon, were thoroughly reviewing one another, which would hopefully lead to a signing of a definitive contract.

At that point while he was saying that I had the Geon file near my desk and I pulled it out to refresh my memory as to when the proposed transaction, or proposed merger was first announced. I saw it was announced in December, and I inquired of Mr. Bloom as to why at least in my mind it was taking such an extraordinary amount of time to reach a signed agreement, and he said that the companies were reviewing each other very thoroughly and that it's one thing when you discuss something and agree on something informally, and it's another thing to sit down and iron out a definitive contract.

- Q What happened then, if anything?
- A Well, the discussion went further.

THE COURT: How long did this call last?

THE WITNESS: The total call with Mr. Bloom?

THE COURT: Yes.

THE WITNESS: I would say about ten minutes.

THE COURT: Ten minutes?

THE WITNESS: Yes.

THE COURT: Was it interrupted at all, or was it

a steady call?

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Q What then happened, if anything?

A After that we concluded that conversation. Mr.

THE WITNESS: I'm almost sure it was a steady call.

If it was interrupted, it was only interrupted just for a

brief moment. But I don't think it was.

The discussion then continued, and I said to Mr.

Hoom that I wanted to be-- first I asked -- excuse me. After
we indicated that it took more than just a-- that it took
more than -- it took a lot of work to reach a definitive
agreement, I then asked Mr. Bloom if there was anything
at all that he thought could even begin to endanger or
jeopardize the proposed transaction at the company, or if
anything had occurred between the two companies, the two
companies meaning Burmah and Geon, in their discussions
and in their ironing out a contract that could begin to
jeopardize the proposed merger, and he responded, no.

I then indicated to Mr. Bloom that I wanted to be sure of this, I wanted to be sure that there was nothing pending, because the last thing in the world the exchange would want to see would be any kind of an announcement at all after a substantial sell off, or a substantial amount of volume in the stock. And Mr. Bloom assured me then that the company had no announcement to make.

Bloom assured me that he would keep the exchange apprised as he has in the past of any developments at the company. And after I hung up the phone with him I called Mr. Foster and advised him of my conversation with Mr. Bloom.

Q About what time did you conclude this phone conversation with Mr. Bloom?

A I'd say at about 10:15 or very, very shortly thereafter. I can't be sure of the exact time. But it was in the neighborhood of 10, 10:15.

- Q Had trading opened yet in June?
- A No, it had not.
- Q How do you know it had not opened yet?

THE COURT: I thought he just testified a minute ago when Foster called you at first you and he decided it wouldn't open until you called them up; is that correct?

THE WITNESS: That is correct, sir.

THE COURT: All right.

Q Yesterday in this hearing Mr. Bloom testified that during this phone conversation you put him on hold during the conversation and then you came back to him and you told him that Geon had opened and it was off a quarter or an eighth and the arbitrageurs would probably pick up most of the shares, and you said -- Mr. Bloom testified you said -- don't worry about it, Frank.

Now, is this a correct statement of what trans-

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pired?

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A No, sir.

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Q Was there any internuption of the phone call for you to speak to anyone else concerning the opening?

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A Not concerning the opening, no.

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Q Did you in fact have any conversation with Mr.

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Bloom that said that the market had opened? Anything to

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the effect that it had opened, that it was off a quarter

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or an eighth and that the arbitrageurs would pick up the

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balance of the shares?

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A No. No.

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THE COURT: What did happen on the market?

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THE WITNESS: At the opening?

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THE COURT: Yes.

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THE WITNESS: The stock opened at, shortly after

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10:30, and I think it was off a half a point, but I am

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not a hundred per cent sure of that. I'd have to check.

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Well, maybe it was off five-eighths, or three-quarters

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of a point. On several, five or 10,000 -- about 10,000 shares or more.

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THE COURT: Did you call Bloom again that day?

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THE WITNESS: No, I don't believe I called him at all that day.

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to Geon after that? You told us the market opened down

five-eighths or something like that.

THE WITNESS: Yes. At about, shortly after 11,

I had been off the floor, my floor, my division, I had been off the floor and when I returned shortly after 11 I was advised that Art Lee was on the telephone with counsel for Geon Industries.

THE COURT: Who was on the telephone?

Q Who is Arthur Lee?

A I'm sorry. Arthur Lee is a director of listings and corporate relations of the exchange in the securities division.

Q Who advised you that Mr. Lee was on the phone with counsel for Gian?

A Steve Girard.

Q Who is Mr. Girad?

A At that time he was assistant vice president of the exchange. He is now a vice president of the exchange.

Q What did you do after you got this information?

A I went into Art Lee's office and listened in on the conversation, only on Art's end, that is, between him and Joe Connelly. Joe Connelly and Jack Friedman are counsel for Geon.

Ω Did you do anything during this conversation?

A Yes.

1	mh Gromet-direct 376						
2	Q What did you do?						
3	A I listened to Arts end of the conversation, and						
4	I surmised that						
5	MR. STRUM: I object, your Honor.						
6	THE COURT: Yes, don't surmise.						
7	Q What did you hear?						
8	MR. STRUM: I object to Mr. Gromet describing in						
9	court what he heard either Mr. Lee or anyone else say,						
10	because it is hearsay.						
11	MR. TIMMENY: It is sworn testimony, your Honor.						
12	It will come in on preliminary hearing.						
13	THE COURT: I will let him answer that. What did						
14	you hear?						
15	THE WITNESS: I heard that the company's earnings						
16	for the last quarter would not be as the company had anti-						
17	cipated they would be, that they may be lower, the year						
18	end results may be lower than the company had anticipated.						
19	MR. STRUM: I move to strike that testimony, your						
20	Honor.						
21	THE COURT: I will leave it in. That is what he						
22	says he heard in this telephone call with some lawyer for						
23	Geon; is that right?						
24 25	THE WITNESS: Yes, sir.						
40	THE COURT: All right.						

approximately 70 cents a share for the nine months ended
September 30, 1973, and there was question as to whether
their earnings would continue through the fourth quarter.

THE COURT: What do you mean by continue through the fourth quarter? At the same rate, or what?

THE WITNESS: That's right, at the same rate.

THE COURT: So 70 cents for nine months, that's about 24 cents a quarter, and they didn't think they might make 24 cents the last quarter; is that right?

THE WITNESS: That's correct.

THE COURT: All right.

THE WITNESS: Art Lee then interrupted his phone call to briefly confirm what I overheard -- what I heard, because I was only hearing his end of the conversation, I was not hearing Mr. Friedman's or Mr. Connelly's end of the conversation. And he confirmed to me what I thought I heard.

He said the earnings, that they had preliminary discovered that the earnings could be adverse for the company and that counsel was requesting that the exchange halt trading in the stock pending an announcement, and we both concurred that this was the thing that had to be done.

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THE COURT: This lawyer, Lee told you the lawyer said suspend trading until we can make an announcement?

THE WITNESS: Yes, that's correct. And Art said, why don't you go and alert the floor to halt the stock. I did. I ran down to my office, I call Mr. Scot Foster on the trading floor. We have a direct line to the trading floor. I advised him of the conversation and of what was happening, and he halted, and then he said he would halt trading in the stock.

BY MR. TIMMENY:

- Q Did you come back then to the room with Mr. Lee?
- Yes, I did.
- Was he still on the phone?
- A Yes, he was.
- 0 What happened then if anything?
- I then overheard the remainder of the conversation, A and as he ---

THE COURT: This is Lee's end?

THE WITNESS: That's correct.

MR. STRUM: Your Honor, I again object.

THE COURT: I know, you have a continuing objection. Go ahead, what did you hear?

THE WITNESS: As Art Lee was talking to counsel Art Leea note, and I don't remember the exact words,

but it was something to the effect that I spoke to Bloom early this morning, as you know, and there was nothing doing at the time, there was nothing at the company at the time. And I don't understand how or why. It was just a brief note. And Art read it, and then in continuing his discussions with counsel he said to them, I don't understand how -- I understand he had a conversation with Frank Bloom this morning, I don't quite understand how the company was--the company's unresponsiveness to his questions, because apparently nothing had transpired in the hour or hour and a half from when I spoke to Mr. Bloom at 10 o'clock and when counsel called at 11:15 or so.

THE COURT: The lawyers called? You didn't call the lawyers or he didn't call the lawyers? The lawyers had called in; is that right?

THE WITNESS: Well, I wasn't present, but from what I understand actually the lawyers called in an officer of the exchange and was not responsible for that area, for this -- for trading in stocks. And for monitoring problems like this.

He then called our division and then Art Lee returned the call to Mr. Connelly and Mr. Friedman. The initial call, however, came from Kelso.

THE COURT: All right. Now, trading was halted,

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and what happened then?

THE WITNESS: Art concluded, Art Lee conc his conversation with indicating -- after indicating that he didn't understand their response to the problem, and said that we would get back to Mr. Connelly and Mr. Friedman and the company to discuss this matter further, because we obviously had some things to talk about.

THE COURT: All right. And in the meantime trading stopped?

THE WITNESS: Yes.

THE COURT: All right. What happened next?

THE WITNESS: I then went back to my office and had a discussion with David Shukovsky who is director of corporate practices of the exchange in the division, in regard to the matter and advised him --

THE COURT: Well, let's not get into all that. I am interested in what happened rather than what you fellows were talking about. Trading was suspended and what was the next thing that happened?

MR. TIMMENY: Let me ask a question, your Honor.

Let's move on to the --

THE COURT: I can't go much longer. I have another matter at 3:30, and it's 3:40 right now. I will give you five more minutes.

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	MR. TIMMENY: We can break off now if you like,
•	your Honor.
	THE COURT: Go ahead, I will give you five minutes.
	BY MR. TIMMENY.

Q Was there a meeting Monday morning, February 25th, with officials of Geon and officials from the American Stock Exchange present?

THE COURT: We are still on Friday, aren't we? This was on Friday you were talking about.

THE WITNESS: Yes. But there was a meeting on Monday.

THE COURT: All right. Well, did the suspension of trading continue throughout Friday?

THE WITNESS: Yes, it did.

THE COURT: And on Monday was trading still suspended?

THE WITNESS: Yes, it was.

THE COURT: All right. Then tell me about what happened on Monday morning.

- Q Did you attend the meeting then Monday morning?
- A Yes, sir.
- Q Attended by officials of the American Stock Exchange and by officials from Geon and counsel for Geon?
 - A REAL
 - Q Who was present at this meeting?

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Q

2	A I was present. Edwin Peterson was present, he
3	is senior vice president of the exchange. Steve Girard
4	was present, of the exchange. David Shukovsky was present
5	and Arthur Lee was present from the exchange.
6	From the company, Frank Bloom was present and
7	for counsel for the company, Jack Friedman, Joe Connelly
8	and Louis, I think Lou or Louis, Korman, I'm not too sure
9	of his first name.
10	Q Tell us briefly what took place at the meeting?
11	A The company first presented a proposed press rele
12	and asked us to read it, review it, and then we got into
13	a discussion in regard to the problems that the company
14	had in the last quarter and the events of Friday morning,
15	Friday the 22nd when the trading of the stock was halted.
16	Q Who was the spokesman for the company initially
17	during the meeting?
18	A For Geon Industries, for the company?
19	Q Yes.
20	A Jack Friedman I think was the primary spokesman.
21	Q Who was Jack Friedman?
22	THE COURT: He was one of the lawyers I understand.
23	Is that correct?

THE WITNESS: He is counsel for the company, yes.

What did Friedman say generally with respect to

this Geon situation? I just want to get into the opening of the meeting.

A Okay. The company presented a proposed release, we reviewed it, they gave us some background of what happened during the fourth quarter and the reason for the lower earnings for the year.

The company indicated that they, counsel for the company indicated that they had not gone to Burmah Oil Company with this news, but they had a meeting scheduled for that morning to discuss it with them.

They said that they didn't know what Burmah's reaction would be, but that obviously they felt the proposed transaction, or proposed merger with Burmah could be affected. That was his opening introductory statement, if you will.

- Now, at some point in the meaning did Mr. Bloom mention the telephone conversation he had had with you prior to the opening of Geon?
 - A Yes, he did.
 - Q Would you tell us about those events?
- A Okay. He gave a brief summary of my conversation with him, and I interjected and said to Mr. Bloom that it was more than just a brief conversation, as he put it.

 I reminded him of some of the questions that I -- that we talked about, and some of the discussion we had on the

The original transcript did not contain a page numbered 384.

phone.

Q Tell us just if you can what you said to him during this meeting.

basis. So I said, Frank, I think it was a little bit more than that in regard to our discussion on Friday. I asked you specific questions in regard to the proposed Burmah merger in regard to any corporate developments at the company which could account for the selling, and I raised some of the other questions and some of the other statements that he made to refresh his memory, and he substantially agreed with me that those were the things that we talked about, and that it was not just a brief conversation that we had on Friday.

Q At that point did anyone else have anything to say concerning the conversation that you and Mr. Bloom were discussing?

A Someone may have--

THE COURT: Well, don't guess about it. What happened about the press releases?

THE WITNESS: Excuse me.

THE COURT: What happened about the press release?

MR. TIMMEY: Your Honor, I would like to approach
the witness and--

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A No, it was not.

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After the press release was under discussion was something added to the second paragraph to put it in its present form?

A Yes.

How much of that second paragraph was added during this meeting?

A Everything except the first sentence of the paragraph. In other words, from the second sentence on. I don't know if you want me to read it to you, but from here on (indicating).

MR. TIMMENY: Do you want the witness to read it, your Honor?

THE COURT: No. And this was put out about what time Monday?

THE WITNESS: I think it was put out at about noon or shortly thereafter.

THE COURT: Trading in the stock was still suspended at that time?

THE WITNESS: Yes, it was. It was actually halted, I believe, pending an announcement.

THE COURT: All right. And the announcement came out about noon?

THE WITNESS: I believe so.

THE COURT: When did trading resume?

THE WITNESS: Trading did not resume. Shortly thereafter the trading halt was continued.

THE COURT: Until when?

THE WITNESS: Until the SEC suspended, the Securities and Exchange Commission suspended trading, then it became a suspension.

THE COURT: I see.

Well, we will recess until tomorrow morning at 10 o'clock.

(Adjourned to June 20, 1974, at 10 A.M.)

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SECURITIES & EXCHANGE COMMISSION,

- VS -

74 Civ. 1496

June 20, 1974

GEON CORP., et al

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10 A. M.

(In open court.)

THE COURT: Good morning, gentlemen. You may proceed.

MR. TIMMENY: Thank you, your Honor.

RANDY GROMET, called as a witness in behalf of the plaintiff, having been previously duly sworn, by the clerk of the Court, testified further as follows:

DIRECT EXAMINATION (CONTINUED)

BY MR. TIMMENY:

- Q Mr. Gromet, I hand you what has been marked SEC Exhibit 1 for identification, and I ask you if you have seen that document before (handing) or a copy of it?
 - A Yes, I have.
 - Q That is the press release of December 3, is it not?
 - A Yes.
- Q Would you tell us please, if you will, the events that you are familiar with concerning this press release beginning with November 30?

A Okay. On November 30, still in the afternoon, I received a phone call from a member of the staff of the Exchange who monitors trading in all annex listed securities by watching the tape, the annex ticker tape in the Exchange offices.

He advised me that Geon Industries stock was active and up, and he asked me -- and he also advised me that there was no recent news to account for the activity, and he asked me to check with the company, or to find out if there were any corporate developments or anything pending at the company to account for this increased activity and the increase in the price of the stock.

I then tried to get to an officer of Geon Industries by calling the company. I was not successful in getting through to anybody there until, I think after the close of the market. About 4 o'clock or thereabouts. I spoke to Mr. Frank Bloom. I advised him of the activity, and I asked him if there was anything pending at the company, and he advised that the company was in preliminary discussions with Burmah Oil which could lead to the takeover of Geon Industries by BurmahOil.

Mr. Bloom and I had a discussion with regard to this and we both concurred that it was adviseable for the company to issue a press release to this effect.

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1	camcg 3 Gromet-direct
2	THE COURT: What day of the week was this, do you
3	remember?
4	THE WITNESS: It was a Friday.
5	THE COURT: It was a Friday.
6	THE WITNESS: Yes, your Honor.
7	THE COURT: Everything seems to happen on a Friday.
8	All right.
9	A I then asked Mr Mr. Bloom then advised that he
10	would prepare a release , and he said if he was not able to
11	get back to me on Friday we agreed that he would call me over
12	the weekend at my home.
13	It was, as I said, it was late in the day, it was
14	about four o'clock or so that I spoke to him, and as a result
15	he did not get back to me on Friday and he did call me at
16	home and we discussed the press release at that time.
17	If I may just interrupt myself, the reason that we
18	discussed it at home was because we felt it important that
19	the release be disseminated to the public prior to the
20	opening on Monday morning.
21	THE COURT: When you say "we" you mean Bloom and
22	you?

THE WITNESS: I'm sorry, yes, Mr. Bloom and I.

THE COURT: All right.

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We discussed it. I believe it was a Sunday, Sunday A

1	camcg 4 Gromet-direct
2	afternoon. Then Monday morning the release was disseminated
3	to the Dow Jones and Reuters and others I believe other
4	news agencies.
5	As that was being done, about 9:30 or so I advised
6	the floor official of the Exchange this and
7	MR. TIMMENY: At this point, your Honor, may I
8	request that the Court sequester any witnesses that may be in
9	the courtroom.
10	THE COURT: Are there any witnesses here in the
11	courtroom?
12	MR. STRUM: Yes, your Honor. There is Mr. Friedman
13	who the SEC has subpoenaed who is a member of Kaye Schoeler
14	Fierman Hays and Handler.
15	THE COURT: Do you want Mr. Friedman to leave?
16	MR. TIMMENY: Yes, your Honor.
17	THE COURT: All right.
18	Mr. Friedman, Mr. Timmeny doesn't want you around
19	here while this is going on. I am sorry, but there is a nice
20	room back here.
21	MR. STRUM: Your Honor, I understand that the SEC
22	plans to call Mr. Korman, who is sitting next to me. I
23	strongly object to any sequestrum of
24	MR. TIMMENY: We didn't ask that, your Honor.
25	THE COURT: I'm sorry, Mr. Friedman.

Gromet-direct

MR. FRIEDMAN: Might I request some idea as to when you might need me?

THE COURT: That is a fair question. When do you think you will need Mr. Friedman?

MR. TIMMENY: Sometime this afternoon, your Honor.

MR. DRAKE: Early this afternoon.

MR. TIMMENY: We will tell counsel at the luncheon recess.

THE COURT: Well, he doesn't have to stay around here all morning then.

MR. TIMMENY: Not at all, your Honor.

THE COURT: All right, Mr. Friedman.

THE WITNESS: I think I was saying I advised the floor official of the pending news release. I believe the floor official was Mr. Micelli, and we both concurred that we are to be assured that the news is disseminated prior to the stock opening.

I don't recall whether this news came out just prior to the opening or at the opening, or maybe shortly before or shortly after.

In any event, I believe the stock was delayed in opening, which is a standard procedure the Exchange follows in order to allow time for the news to disseminate, to get out to the public.

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Subsequent to that the stock was opened for trading.

THE COURT: Do y er when trading was opened?

About what time?

THE WITNESS: I could take a guess. At about 11 o'clock, quarter of, ten thirty.

THE COURT: All right.

THE WITNESS: I have my notes that I made at the time.

THE COURT: That's all right.

BY MR. TIMMENY:

Q Mr. Gromet, subsequent to your discussions with Mr. Bloom concerning this December 3 press release did you have any further discussions in December concerning any other press releases?

- A I'm sorry, with Mr. Bloom?
- Q Well, with any official at the -- at Geon Industries?
- A Yes, I had a discussion with Mr. Bloom on the 18th of December, and then I had a discussion with Mr. Korman, I believe, on the 20th. I think I also may have had discussions with other representatives, other people at Kaye Schoeler on those two dates.
- Q Subsequent to these discussions on the 18th and the 20th did you have any further discussions concerning press releases with any officials of Geon or any persons represent-

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ing Geon in January?

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A No, I don't believe I did.

When was the next time you had some discussion with someone at Geon, or someone representing Geon concerning press releases?

A On the 22nd of February. When I spoke to Mr. Bloom. In the morning.

Did you have any discussions with any officials at Geon or anyone representing Geon from, say, the end of December until February 22 concerning any matter other than press releases? Other than getting out information to the public?

THE COURT: Well, I don't understand that question.

MR. TIMMENY: Well, he said, your Honor, he did

discuss --

THE COURT: You said you had some discussion around December 18.

THE WITNESS: And the 20th.

THE COURT: And the 20th. And after that, between that day and February 22 did you have any discussion with Mr. Bloom or anybody at Geon about anything?

THE WITNESS: No, I didn't.

THE COURT: All right.

THE WITNESS: I do not believe I did.

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THE	COURT:	A11	right.

MR. TIMMENY: I have no further questions at this time, your Honor.

THE COURT: Mr. Strum.

CROSS-EXAMINATION

BY MR. STRUM:

- Q Mr. Gromet, how old are you?
- A 29. As a matter of fact, I was 29 just last week.
- Q Congradulations.
- A Thank you.
- Q After you graduated from school Mr. Gromet, who was your first employer?
 - A The American Stock Exchange.
- Q So that from the time you graduated from school until the present your sole employer has been the American Stock Exchange; is that correct?
- A Yes, sir.
 - Q You're not a lawyer, are you, Mr. Gromet?
- 20 A No, I am not.
 - Q You testified to a conversation you had with Mr.

 Foster, a floor official on the morning of Friday, February

 22.

Can you tell me precisely what Mr. Foster said as best you can recall that?

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1	camcg 9 Gromet-cross
2	A Yes, sir. Mr. Foster called me at about 10 o'clock
3	and advised that there was a substantial imbalance of sell
4	orders in Geon Industries common stock, and that that totalled
5	about 10 to 11 thousand shares. He requested that I call
6	the company
7	THE COURT: Does that mean that there were 10 to 11
8	thousand shares being offered for sale more than shares
9	being offered to buy? Is that what that means?
10	THE WITNESS: I don't believe that necessarily is
11	true, your Honor. He was only giving me the sell side of the
12	market.
13	THE COURT: Only the sell side.
14	THE WITNESS: He did not give me any of the buy
15	side.
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THE COURT: He just said there were 10 or 11 thousand waiting to be sold, and you didn't know --

THE WITNESS: That's correct.

THE COURT: Why do you call that an imbalance?

THE WITNESS: Because theme were more sell orders than there were buy orders.

THE COURT: But you didn't know what the buy orders were.

> THE WITNESS: No. I could only conclude that --THE COURT: Well, you just assumed when he said an

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cameg 10 Gromet-cross imbalance, you didn't know anything about the buy orders. THE WITNESS: That's correct. THE COURT: All right. THE WITNESS: Mr. Foster requested that I call the company to ascertain if there were any corporate developments to account for the selling pressure at the opening, or if there was anything new or anything had changed in regard to the proposed merger with Burmah Oil. Mr. Føster and I then both agreed, both concurred that the stock would not open until I reported my findings to Mr. Foster from my conversation with the company. I think you indicated --

Excuse me. I just want to add one more thing. The only other thing he may have said is that he was going to delay the opening due to an imbalance of orders. That is the essence of the conversation that we had.

It didn't last very long. It was very quick.

So that I take it you did not know at that point in time how many shares, how many orders or how many shares the people wanted to purchase before the opening?

THE COURT: Well, he said he didn't. We have had that.

A I didn't, that's right.

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Did you ask Mr. Foster how many shares are offered Q

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A No, sir, I did not.

You said that Mr. Foster asked you to find out if there was any information to account for the selling pressure. Did he tell you who was offering the 10 or 11 thousand shares for sale?

A No, sir, I don't believe he did.

Q Did you ask him who is offering the stock so I can speak to somebody at the company and give him information about who is selling the stock?

A No, I did not ask him that.

Q Well, if you want to check --

THE COURT: Well, don't argue with him. He said he didn't. His testimony is he wanted to check with the company to see if there were any corporate developments, as I understand his testimony.

Q Mr. Gromet, do you know today who offered stock for sale prior to the opening on February 22?

MR. TIMMENY: Objection, your Honor.

THE COURT: I will let him answer if he knows?

A Yes, sir, I do know.

THE COURT: All right.

Q Who offered the stock for sale on the morning of Friday, February 22 prior to the opening?

2	A I don't know specifically who, I do know that a
3	good part of the sellers came from the brokerage firm of
4	Edwards and Hanley.
5	Q When you say a good part, Mr. Gromet, how much i
6	that?
7	A I don't know. I could take a guess
8	THE COURT: Well, don't quess.
9	A Okay.
10	Q Do you know if it was more than half?
11	MR. TIMMENY: Objection, your Honor. He said he
12	doesn't know.
13	THE COURT: Well, I will let him answer.
14	He said a good part.
15	What do you mean by a good part?
16	THE WITNESS: I mean about half, or perhaps more.
17	THE COURT: All right.
18	THE WITNESS: That's what I mean by a good part.
19	Q Isn't it a fact, Mr. Gromet, that prior to the
20	opening on February 22 Edwards and Hanley only had 1,500
21	shares offered for sale?
22	A I don't know.
23	Q You don't know that?
24	A No, sir.
25	Q Who offered for sale the balance of the 10 or 11

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MR. TIMMENY: Objection, your Honor.

THE COURT: Well, he can answer it if he knows.

A I don't know.

THE COURT: He doesn't know. All right.

Do you know if anyone at the American Stock Exchange --do you know who at the American Stock Exchange knows precisely
who the sellers were before the opening on Friday?

A Yes.

thousand shares?

Q Who knows that?

A The market surveillance department, which is in a different division, monitors and reviews all the trading in annex listed securities, and they would have all the facts and figures on that.

Q Well would other people have those facts as well? Would Mr. Lee have those facts?

A I can't speak for Mr. Lee. I could only guess that he is aware to some extent of the sell orders of the stock.

Q Did you, Mr. Gromet, ever speak to any of the sellers prior to the opening on Friday --

MR. STRUM: Let me withdraw that question.

Q With regard to the sellers prior to the opening on Friday Edwards and Hanley and others, have you ever spoken to

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indicated before is responsible for that.

THE COURT: You don't know which ones? Or do you?

THE WITNESS: I could guess. I don't know for a fact.

THE COURT: Well, who do you think?

THE WITNESS: I believe it was Mr. Frank Savarese of the American Exchange.

Q Have you ever asked anyone at the American Exchange to tell you what they learned about who offered the stock for sale and why they offered the stock for sale prior to the opening on Friday?

THE COURT: Will you repeat that question?

(The question was read.)

THE COURT: Well, you can answer that. Did you ask anybody about it?

A I'm sure I had some discussions with a number of people at the exchange in regard to the selling of that morning. In regard to the sales that were constant at each of the morning of the 22nd.

Q Let me restrict my question not to the -
THE COURT: Well, let's not simplify it. Doyou

remember who you talked to on the --

THE WITNESS: I don't recall specifically who it was.

THE COURT: Do you recall anybody --

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THE WITNESS: It was probably with a number of different people.

THE COURT: Do you recall any of the people you talked to?

THE WITNESS: I think it was Mr. Shukovsky,
perhaps. I am not a hundred percent sure on that. Steve
Gerard, and maybe Frank Savarese. I'm unclear specifically --

THE COURT: That's all right. You're not being held on this, they are just looking for information. You might have talked to these people?

THE WITNESS: Yes, sir.

THE COURT: All right.

BY MR. STRUM:

Q Mr. Gromet, I want to focus solely at the moment on the stock offered for sale prior to the opening.

A Yes, sir.

Q Did you discuss the sale, the offers for sale prior to the opening with Mr. Shukovsky?

A No, I did not.

Q Did you discuss it with Mr. Gerard?

A No. Prior to the opening?

Q No, the stock --

THE COURT: The question is awfully confusing. I

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take it the question is, did you discuss the orders for sale prior to the opening with anyone, not necessarily prior to the opening, but at any time? It could have been after the opening. But the discussion would relate to the sale orders prior to the opening.

You said that you had talked to these other people.

THE WITNESS: Yes.

THE COURT: And I suppose that was after the opening?
THE WITNESS: That's correct.

THE COURT: The question is, did you talk to them about the sell orders that were there prior to the opening?

THE WITNESS: The only person I spoke to about the sell orders, and it was just in a general conversation, was Art Lee, and that was before the opening. It was at about 10:15 or 10:20, right in there.

Art Lee walked into my office, and he had read on the broad tape that Geon Industries was delayed in opening due to an imbalance in orders, and he asked me about the matter and I advised him of what had occurred.

Other than that and my conversation with Mr. Foster and Mr. Bloom, I have no other conversation with anybody prior to the opening in regard to Geon Industries, in regard to the sell orders in Geon Industries.

Q So that as of today, Mr. Gromet, you don't know who

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offered, other than Edwards and Hanley, you don't know who offered stock for sale prior to the opening, and you don't know what they have to say about why they offered stock prior to the opening?

THE COURT: Well, wait a minute. He didn't say that. I thought he testified that he thought that a great part of these orders came from Edwards and Hanley and that when I asked him what a great part was, he thought about half of them. Those were the orders at the opening; is that correct?

THE WITNESS: That's correct.

THE COURT: All right.

MR. STRUM: Your Honor, I was inquiring as to other than Edwards and Hanley.

THE COURT: Well, that wasn't your question. Do you know where these other orders came from, what other brokerage house?

THE WITNESS: I don't recall.

THE COURT: But you say that would be a matter which you could find out because you keep a record of all this?

THE WITNESS: That's correct.

THE COURT: So the information is available, but you don't have it?

THE WITNESS: But I don't recall the names of the

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brokerage houses at this time.

THE COURT: All right.

BY MR. STRUM:

Q When you say you don't recall, sir, do you mean that at one time you had that information, but now --

THE COURT: No, no. Please.

MR. TIMMENY: Objection, your Honor.

THE COURT: Let's not get into that. Well, really. He has told you how you can find out the information.

MR. STRUM: Your Honor, what I would like to elicit is not merely the information, but what Mr. Gromet knows about --

THE COURT: He has told you what he knows about it right now. I don't think you need to pursue it any more. He said half Edwards and Hanley, and he doesn't recall who the others were, but he said he can easily find that out.

Q You spoke to Mr. Bloom on the morning of Friday, February 22, did you not?

A Yes, sir, that's correct.

Q Did you say to Mr. Bloom, inwords or substance that while there were ten or 11 thousand shares for sale it wasn't a big deal because the arbitrageurs were prepared to pick up the stock?

- A No, sir, I did not say that.
- Q You did not say that?

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THE WITNESS: Not necessarily.

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THE COURT: All right.

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Isn't it a fact, Mr. Gromet, that while you were talking to Mr. Bloom prior to the end of your conversation

1 camcg 21 Gromet-cross you told him that the marekt in Geon had opened? 3 No, sir, that's not correct. That is not correct. Mr. Gromet, have you ever prepared a memorandum concerning the conversations that you 5 had on Friday, February 22? A Yes, I did. When did you prepare that memorandum? I prepared it on Friday, February 22, that same day. Q That same day. A Yes, sir.

Did you dictate it to someone? Did you write it out in longhand, or how did you prepare it?

I don't recall. I don't recall whether I wrote it out in longhand or dictated it. Again, I could only guess. I just don't recall.

Do you have a secretary, Mr. Gromet? 0

Yes, I do, sir. A

Do you know when the memorandum was typed?

Yes, it was typed on Monday, February 25. A

THE COURT: Friday, February 21, and you typed it on --

THE WITNESS: Pardon me, I think Friday was the February the 22nd. And Monday was the 25th. THE COURT: All right.

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2	Q Mr. Gromet, did you do it in draft, or did you do
3	it in final? In the first instance?
4	A It was in draft first. In draft.
5	Q Prior to the time it was rendered into final did
6	you show it to anyone?
7	A Yes, I did. Did I show it to anyone?
8	Q Yes.
9	A Yes, I did.
10	Q To whom did you show it?
11	A David Shukovsky.
12	Q Anyone else?
13	A No.
14	Q When did you show it to Mr. Shukovsky?
15	A On the Monday, the 25th.
16	Q You attended a meeting on Monday morning at the
17	American Stock Exchange with some Geon people; is that
18	correct?
19	A Yes, sir.
20	Q Did you show this memorandum to Mr. Shukovsky before
21	or after that meeting?
22	A After the meeting.
23	Q Did you discuss the memorandum with Mr. Shukovsky?
24	A Yes, I did.

Did he suggest any changes?

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Yes, he did.

Did you incorporate his changes in the memorandum as it finally was turned out?

Yes, I believe I incorporated most of them, if not all of them.

MR. STRUM: May I have this marked for identification, please?

(Defendant Geon Exhibit B marked for identification.)

MR. TIMMENY: May I see that, please?

MR. STRUM: Surely (handing).

Mr. Gromet, I show you what has been marked Exhibit B for identification, and I ask you if this is the memorandum that you prepared with respect to the conversations you had on Friday, February 22 (handing).

A Yes, sir, that is correct.

You testified that counsel for Geon on Friday requested that trading be halted in Geon stock; is that correct, sir?

Thatwas my surmise, or, my understanding of my overhearing Art Lee's convergation with Mr. Friedman and Mr. Connolly. I was not listening to both parts of the conversation, but just to Mr. Lee's end of the conversation.

Is the fact that Geon's counsel requested the halting trading reflected in your memorandum, sir?

1	camcg 24 Gromet-cross	
2	A I would have to refer to my memo.	
3	Q Please do.	
4	A No, there is nothing in here that specifical	ly says
5	that.	
6	Q Mr. Gromet, I would like to direct your att	ention
7	to your memorandum once more with particular referen	ce to the
8	last sentence?	1
9	A Yes, sir.	
10	Q Now, that states that the conversation cont	inued?
11	A Yes, sir.	/
12	Q After the halt in trading. Tell me, the co	nversatio
13	that continued thereafter as best you recall it.	
14	MR. TIMMENY: Objection, your Honor. I this	nk
15	counsel has misstated the last sentence.	
16	THE COURT: Well, I haven't seen the last so	entence,
17	it isn't in evidence. All right, your question is	vhem you
18	returned to Art Lee's office and overheard the remain	nder
19	of the conversation, what did you overhear, if you	ecall?
20	THE WITNESS: When I returned to Art Lee's	office
21	I wrote him a note	
22	THE COURT: No, that isn't the question.	1.
23	THE WITNESS: I'm sorry.	
24	THE COURT: You say in that last sentence yo	u re-

turned to Art Lee's office and overheard the remainder of

the conversation, and he wants to know what you overheard if you can remember it.

saying to Mr. Connolly and Mr. Priedman on the other end that he was dismayed, to say the least, and he didn't use these words, I'm putting it into my own words, he was dismayed that Mr. Bloom who he understood I had spoken to earlier was not completely open with the Exchange, with me in my prior conversation, and Art Lee said there was no excuse for this and he couldn't understand it, and he said that the staff would be back to the company and/or to counsel to discuss the matter further.

Q Isn't it a fact, MR. Gromet, that Mr. Lee praised Geon and its counsel for its quick action?

MR. TIMMENY: I object to the characterization, your Honor.

THE COURT: You are talking about the remainder of the conversation?

MR. STRUM: Yes, your Honor.

THE COURT: Did he? Do you recall that?

THE WITNESS: He may have, but I don't recall that.

That may have happened before I entered the room.

THE COURT: You don't recall it?

THE WITNESS: No, sir.

You attended, did you not, a meeting at the American Stock Exchange on Monday morning, February 25?

A Yes, sir.

You testified with regard to this meeting that there was some conversation concerning what you had said to Mr.

Bloom and what Mr. Bloom had said to you on Friday; is that correct, sir?

A Yes, sir.

Q With regard to that conversation of who said what, did Mr. Korman make any comments?

A Yes, I believe he did make some comments.

Q What do you recall Mr. Korman having said on that subject?

A I don't recall specifically what he said, but I believe he did have some comments on the subject.

Q Was the burden of his comments that your version of the conversation --

MR. TIMMENY: Objection, your Honor. He has already said that he doesn't recall.

THE COURT: Yes, I have heard that. I think I will sustain the objection. Its a self-serving statement, I suppose.

You don't recall what comments; is that right?
THE WITNESS: No. No, I don't.

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THE COURT: You don't recall?

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THE WITNESS: I know it couldn't have been anything too lengthy.

THE COURT: Well, I don't care whether it's lengthy. I hope not as lengthy as we are going through here. But, do you recall anything he said?

THE WITNESS: No, sir, I do not.

THE COURT: All right.

MR. STRUM: Your Honor, may I be permitted to suggest things --

THE COURT: No, no. We will hear Mr. Korman, I suppose. He can tell you what he said.

BY MR. STRUM:

During that conversation, that meeting on Monday, did any of the American Stock Exchange people there ask the company to put in its press release a statement that Geon had misled the American Stock Exchange?

Could I ask that the question be read back to me? THE COURT: All right. Repeat it, Mr. Reporter. (Question read.)

Well, we advised that the company that we felt it appropriate to add additional language which raflected the events of February 22 Friday.

THE COURT: Well, the answer to this question is,

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no, but you wanted some additional information about the events; is that right?

THE WITNESS: That's correct.

THE COURT: All right.

- Mr. Gromet, do you recall any discussion at that meeting on the part of the Geon people to the effect that Geon and its attorney had been subjected to unremitting pressure from arbitrageurs during the prior several weeks?
 - Yes, sir.
 - Do you recall that conversation? 0
 - Yes, I do. A
 - Whom do you recall addressed himself to that sub-Q ject?
 - I think it was Frank Bloom who said that, and I believe it was also Mr. Connolly or Mr. Friedman indicated that their office had also received a number of calls. But I'm not a hundred percent sure on Mr. Connolly and Mr. Friedman. I'm quite certain about Mr. Bloom.
 - Do you recall what was said on the subject of this pressure from arbitrageurs?
 - Yes. Mr. Bloom said that he just got barraged with calls from interested parties in Geon saying --

THE COURT: Interested parties. You mean parties interested in Geon? Is that what you mean?

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THE WITNESS: Yes, yes. I'm sorry. That's correct, sir.

A (Continuing) Inquiring what the updated status of the proposed merger was, what the meeting was, et cetera.

In fact, Mr. Bloom said he received calls, that these people bothered his secretary continually.

He may have even said that he received calls at home which he said was rather disturbing.

Q Did either Geon, the people from Geon, Mr. Bloom, or counsel, suggest that the American Stock Exchange take any action with respect to those arbitrageurs?

- A With respect to the people calling Mr. Bloom --
- Q Yes.
- A I don't recall. They may have, but I don't recall.
- Q Do you recall a suggestion that the American Stock Exchange do something to curb this kind of activity?

MR. TIMMENY: Your Honor, I am going to object on the grounds of relevance to this line of questioning.

THE COURT: I will let him answer that. If he remembers. You remember anything like that?

THE WITNESS: Your Honor, I cannot distinctly remember that being said, but --

THE COURT: The subject.

THE WITNESS: Yes, I do, that's correct.

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Q Did anyone on behalf of Geon or Geon's counsel give you the names of individuals, of arbitrageurs whom they

A Not --

thought ought to be pursued?

THE COURT: Well, that's such a long question I don't quite see that. Firstly, did anybody at this meeting tell you who these arbitrageurs were?

THE WITNESS: Not that I recall.

THE COURT: Not that you recall.

THE WITNESS: No.

THE COURT: All right.

THE COURT: All right.

Q Also at that meeting on Monday did the American Stock Exchange people name some individuals or entities that had sold stock on Friday?

- A That meeting?
- Q Yes.
- A Yes

And it was stated that the people who were named were people who had sold on Friday and you were inquiring what the Geon people might know about it, about these people; is that correct?

- A That's correct.
- Q Was one of the names mentioned the Wachovia Bank?

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- A Yes, I think that's --
- Or the Wachovia Bank?
- I believe that's correct.
- Do you know through which brokerage firm the Wachovia Bank sold stock?
- No, sir, I do not. I don't recall I may have it in my notes, but I don't recall offhand.
- Was one of the selling entities The First National Bank of Denver that you had named?
- A I think that sounds familiar, too. I think that's correct. This is a list that Mr. Shukovsky had and that was attached to my memo. I don't recall all the names, but I think that name is also on there.
- Do you know through which brokerage firm of The First National Bank of Denver sold?
 - A No, I do not. Not offhand.
- Was one of the names mentioned the Chesapeake Fund of Maryland?
 - I don't recall that name.
- Mr. Gromet, do you recall any conversation during that Monday meeting about the question of what possibly could have accounted for the market activity on Friday?
- I'm sorry, I don't understand the question. Could I ask it to be repeated, or --

Q Yes, I will be happy to repeat it. I will rephrase it.

A Okay.

Q Was there any discussion at the Monday meeting at the American Stock Exchange on the subject of what might have accounted for the market activity on the previous Friday?

A I am sorry to take so long. I am just trying to think about this. Your question, specifically,

THE COURT: Well, was there talk as to what caused this market activity the previous Friday? That is what he is asking you, in simpler terms. Was that discussed? What caused the market activity on Friday?

THE WITNESS: Yes. There was certainly discussion in regard to the matter, yes.

Q What do you recall, sir, as the discussion on that subject?

A I don't recall at this moment the discussion on that.

I suppose I could refresh mymemory with --

THE COURT: All right, you have answered. You don't recall what was said.

THE WITNESS: I do not recall.

THE COURT: You think it was discussed, but you don't recall what was said.

THE WITNESS: That's correct.

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Do you recall, Mr. Gromet, that one of the attorneys there for Geon, one of the people from Kaye Schoeler, said that Robert Barbanell had revealed after the trading had been halted the first time that he told people prior to the Thursday board meeting that there was going to be a board meeting? Do you recall that?

MR. TIMMENY: Your Honor, I object to the question.

I mean, there are a lot of he said and that he said, and so forth.

THE COURT: Well, I think it is an awfully long question. Do you remember that somebody at Kaye Schoeler talked about a fellow called Barbanell?

THE WITNESS: Yes, I do.

THE COURT: What do you recall he said about Barbanell?

THE WITNESS: I believe, and I am recalling, I believe that the Kaye Schoeler representative said that Mr. Barbanell had advised one individual, or two individuals, I don't recall how many, that there was a board meeting scheduled for Thursday, a Geon board meeting, excuse me, scheduled for Thursday night of — Thursday afternoon. Sometime Thursday. I believe that's correct. I would have to —

THE COURT: All right, that's your best recollection at the moment.

THE WITNESS: Yes, sir.

THE COURT: All right.

MR. STRUM: May I request that the answer be read back to him?

THE COURT: Let's move along. You know, we are taking a colossal amount of time on this. If you want to we will, but let's speed along.

MR. STRUM: All right. I will dispense with the reading, your Honor.

THE COURT: All right.

BY MR. STRUM:

Q Do you know Mr. Barbanell to be a partner of the brokerage firm of Loeb Rhoades?

A I'm aware that he is associated with the Loeb Rhoades, but I don't know his position with the firm.

Q Mr. Gromet, are you aware of the fact that Mr. Rauch gave unsworn testimony before the American Stock Exchange with regard to this matter?

A With regard to what matter?

With regard to purchases and sales of Geon stock?

THE COURT: Well, why do you make all these long involved questions? Do you know whether or not Mr. Rauch testified before the American Stock Exchange? Do you know if he did?

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Yes, I'm aware of that.

THE COURT: He did.

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THE WITNESS: Yes.

THE COURT: He testified, but he was not put under oath; is that right?

THE WITNESS: I don't know.

THE COURT: You don't know. Were you there?

THE WITNESS: No, I was not, sir.

THE COURT: All right.

BY MR. STRUM:

Are you aware of the fact that after getting some statements he thereafter recantored the statements he had made?

THE COURT: Well, he wasn't there. I think we had better get somebody who was there if you want to get that in.

THE WITNESS: Should I answer the question?

THE COURT: No. Don't answer.

Mr. Gromet, do you know how it first came to the attention of the American Stock Exchange that Mr. Rauch was not telling the truth to the American Stock Exchange?

MR. TIMMENY: Objection, your Honor. Not telling the truth in what regard? Where? When? What is all this?

THE COURT: Yes, I think this is sort of doing something by great indirection, it seems to me.

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	Gromet-cross
2	Do you have any knowledge that Mr. Rauch didn't tell
3	the truth before the American Stock Exchange?
4	THE WITNESS: Yes, I was
5	THE COURT: How did you find that out?
6	THE WITNESS: I believe Dave Shukovsky told me, or
7	Art Lee told me. I got it from
8	THE COURT: Somebody told you that.
9	THE WITNESS: Yes. Through different people. I
10	don't recall who.
11	THE COURT: All right. And you weren't present?
12	THE WITNESS: No, sir, not involved at all.
13	THE COURT: All right.
14	MR. STRUM: I have no further questions.
15	THE COURT: Mr. Gordon.
16	CROSS-EXAMINATION
17	BY MR. GORDON:
18	Q Mr. Gromet, who told you that Edwards and Hanley had
19	a good part of the sales on the opening?
20	A Nobody specifically told me that. I was only recol-
21	lecting that I believe I had discussions with other members,
22	staff members of the Exchange who advised me that Edwards and
23	Hanley had some stock for sale. I don't recall how much. I
24	got the impression

THE COURT: You told us a greater part.

Gromet-cross

THE WITNESS: I got the impression that it was a -THE COURT: You said greater part, and when I asked
you about that you thought that was around half. Now let's
not go all over the lot.

You did say that, and he wants to know how you found that out, I take it. How did you find that out?

THE WITNESS: I don't recall anybody specifically telling me that. I just recollect getting that impression, somewhere.

BY MR. GORDON:

Q Mr. Gromet, aside from your impression then is it your testimony that as of right now you do not know how many shares of stock were available on behalf of Edwards and Hanley at the opening?

A That's correct, sir. I do not know.

Q All right. Now, did anyone ever tell you how many shares of stock were sold by Edwards and Hanley for the whole day?

A Yes, I believe, again I believe I had discussions with people in the Exchange in regard to that.

Q Did anyone ever tell you that there was a total of 5100 shares sold by Edwards and Hanley for the whole day?

A Again, I can't recall anybody specifically saying that to me, but I recall that the Edwards and Hanley shares,

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that the sell orders of Edwards and Hanley on that day were substantial.

Q Well, does the figure 5100 shares to you mean substantial? THE COURT: Let's not get into that. Gentlemen, we are going so far afield. This witness says all this informa-

tion is known and can be found from the records and his memory

isn't very good about it. I don't quite see what we are doing except wasting a lot of time. But he does say that he

did testify that he thought the greater part of the sales, and he thought that was about a half of this ten or 12

thousand came from sell orders of Edwards and Hanley.

THE WITNESS: 10 or 12 thousand shares.

THE COURT: Yes.

Is that your testimony, Mr. Gremet? Q

Again, that was a guess on my part before. Only a A guess.

MR. GORDON: I have no further questions.

THE COURT: Are there any other questions?

MR. TIMMENY: A couple, your Honor.

REDIRECT EXAMINATION

BY MR. TIMMENY:

Mr. Gromet, Mr. Gordon just referred to the whole Q day of trading on the 22nd. What was the whole day in terms

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1	camcg 39 Gromet-redirect
2	of hours?
3	A It was until 11:15 or 11:20 at the time we halted
4	trading, about an hour and a quarter, an hour and 20 minutes,
5	something like that.
6	Q Do you know that Mr. Barbanell is director of Geon?
7	A Yes, sir.
8	Q With respect to your memorandum concerning the events
9 🐁	of Friday, February 22, that have been marked as Geon Exhibit
10	В
11	MR. TIMMENY: First, your Honor, I would offer it
12	into evidence.
13	THE COURT: Is there any objection?
14	MR. STRUM: I have no objection, your Honor.
15	THE COURT: All right, it may be received.
16	(Geon Exhibit B received in evidence.)
17	BY MR. TIMMENY:
18	Q Mr. Gromet, you were asked whether you had shown
19	this to Mr. Shukovsky; is that correct?
20	A Yes, sir.
21	Q You said you did?
22	A Yes.
23	And you said Mr. Shukovsky's changes were incorporated
24	in the memo?

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Yes, sir.

1	camcg 40 Gromet-redirect 428
2	Q What kind of changes were they? Weren't they
3	editorial?
4	A Grammatical, sentence structure, spelling, I think.
5	Q Any other kind of changes?
6	A No, sir.
7	Q No changes of substance?
8	A No.
9	Q Again referring to your memorandum, last paragraph
10	therein, the first sentence?
11	A Yes, sir.
12	Q That says, in essence, that you walked into Art Lee'
13	office and you learned that counsel for Geon was on the phone
14	with Lee?
15	A Yes, sir.
16	Q Is that the way the events occurred?
17	A Yes, yes. That's correct.
18	Q So there is nothing untoured in your excluding the
19	reference to the fact that counsel from Geon had called the
20	Amex.
21	THE COURT: He didn't say there was anything un-
22	toured, that is what you're asking about.
23	MR. TIMMENY: I have no further questions, your
24	Honor.
25	THE COURT: Are there any other questions?

1	camcg 41 Lee-direct
2	MR. STRUM: No.
3	THE COURT; All right. Thank you, you are excused.
4	We will take a five minute recess.
5	(Short recess.)
6	THE COURT: All right, Mr. Timmeny.
7	MR. TIMMENY: Your Honor, we call as our next witness
8	Mr. Arthur Lee.
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10	ARTHUR LEE, called as a witness on behalf
11	of the plaintiff, having been first duly sworn by the
12	clerk of the Court, testified as follows:
13	DIRECT EXAMINATION
14	BY MR. TIMMENY:
15	Q Mr. Lee, would you outline your work experience?
16	THE COURT: Tell me what you do. What do you do?
17	THE WITNESS: I am the director of listings and
18	corporate relations at the American Stock Exchange.
19	THE COURT: All right.
20	Q How long have you held that post?
21	A Since January 1974.
22	Q What are you responsibilities in that post?
23	A My responsibilities are the supervision of the
24	listing department which was responsible for the evaluation
25	and recommendation of new listings, general supervision of

Yes, yes. You know it's all taken care of. I said, well, did you get to the company. He said, yes. I said, Did you ask them specifically about the Burmah deal? Because that's been a while. He said, Yes, yes. I said, Any other development? He said, No, no. I said, did you get to the floor? He said, yes. I said, okay. It was all taken care of.

So I walked out of his office. Then at about 11:15

Steve Gerard who at that time was assistant vice president

of the Exchange walked into my office. He said, hey, Bernie

Mass received a call from Joe Connolly, and Joe Connolly said

something to --

THE COURT: Who is Bernie Maas?

THE WITNESS: Bernie Maas is a vice president of the Exchange in the market developing division.

THE COURT: And he received a call from someone called Connolly?

THE WITNESS: From Joe Connolly.

THE COURT: All right.

- Q Who is Joe Connolly?
- A Joe Connolly is an attorney representing Geon.
- Q All right. Go ahead and fall us what happened then.
- A So he said, he said something to Bernie about he had some news, something about halting trading, get back to him.

So I immediately got on the phone and I called Joe Connolly,
and basically as soon as Joe picked it up Jack Friedman
got on the line at the same time.

So when I recount the conversation it's really impossibly for me to pinpoint exactly which of the two said
what, but, you know, one of the two said it. I said, hey

Joe, I said, I heard you called Bernie. He said, yes, I think we are going to hold up trading in the stock. I said, well, what's the story? He said, well, look --

THE COURT: Wait a minute now. You are going a little fast for me. Who said hold up trading in the stock?

THE WITNESS: Joe Connolly. I think we ought to hold up trading on the stock.

THE COURT: All right. And you said -THE WITNESS: Well, what's the story?

THE COURT: What's the story?

THE WITNESS: Yes. Why. And Joe said that in preparation for the Burmah deal that there was a board meeting held the previous evening, and at that board meeting the directors examined preliminary financial results for the year ending December 31, 1973, and the numbers came in, and I remember. specifically they used the word the board was shocked, or appalled, I remember those two words stick out in my mind very clearly. They were shocked and appalled at the

results. They couldn't believe the results.

Then they said -- in fact, it was so unbelievable to them that they said, you know, there probably are mistakes here so they directed that the accounting personnel go back, work throughout the entire weekend and there is going to be a special board meeting called for Sunday evening, February 24, at which point they would look at the numbers again and see if the numbers turned out to be the same, and if there are any mistakes.

So that was that part of the conversation. And I said, well, you know, that is sort of nice, but when did you plan to make disclosure on this? You know, this is pretty important. Regardless of what the events were at the Sunday night board meeting we are going to make some disclosure prior to the opening on Monday morning.

He said, look, no one outside the company, no one outside the company could have known about the events at that board meeting.

He said, in my opinion some arbitrageurs have probably heard about the board meeting, and when there was no announcement that came out on Friday morning after the board meeting about the merger, that probably the arbitrageurs got scared that it just didn't look good for the merger.

He felt that this was what was happening, that the

arbitrageurs were just selling like mad and that it wasn't a matter of anyone knowing about the numbers.

Now Randy Gromet had walked into my office at this point, and I remember putting my hand over the phone and I briefly outlined the results of the conversation up to this point. I said, I think we ought to hold up trading, and what do you think? He said, yes. So he left my office, and as far as I know he contacted a floor official and held up trading. I continued my conversation at that point.

I asked if Burmah had been informed of the events. They said, no, they were not going to inform them until after the board meeting Sunday night because they didn't know whether a real problem existed. So, that was their plan.

I said, well, do you think that based upon the numbers that you have seen that the deal, you know, will continue to go through, if those turn out to be the actual numbers. And one of them, I don't remember who, said in his opinion that the deal would not go through if the numbers were on the level, that they originally saw.

At this point Randy had come back into my office and he slipped a note to me, something about -- and again this is the general gist of it, Frank Bloom, you know, why did he not tell me the truth, why did he lie, or something, which said, you know, ask him about Frank Bloom not telling you the

1	camcg 47 Lee-direct
2	story. And so I was sort of angry and I said, you know, what
3	kind of crap is this, you know, Frank Bloom not telling Randy
4	what the story was, you know, there is no excuse for this.
5	One of them said, well, you know, we have to share
6	some of the blame on that because we told Frank, you know,
7	not to may anything to anybody.
8	THE COURT: These are the lawyers?
9	THE WITNESS: Yes, the lawyers.
10	I said, well, you know, this better not happen
11	again. We just can't tolerate this. And they said, one of
12	them said, no, don't worry about it, it won't happen again.
13	I said, all right, we'll get back to you later. Let's see
14	where we are at now. And that was the end of that conversa-
15	tion.
16	THE COURT: Did you tell them when Gromet came back
17	that you stopped trading?
18	THE WITNESS: I don't remember. I may have. I
19	don't remember.
20	THE COURT: You don't remember.
21	THE WITNESS: No.
22	THE COURT: All right.
23	MR. TIMMENY: I have no further questions, your
24	Honor.

THE COURT: Are there any questions?

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1	camcg 48 Lee-cross 436
2	MR. STRUM: Yes, your Honor.
3	CROSS-EXAMINATION
4	BY MR. STRUM:
5	Q Mr. Lee, Mr. Gerard told you that Mr. Connolly had
6	called Mr. Maas; is that correct?
7	A Correct.
8	Q Did Mr. Gerard tell you what time that call took
9	place?
10	A No. He said something like a few minutes ago, I
11	just heard from Bernie Maas and, you know, he got a call from
12	Joe Connolly, but he did not specifically mention the time.
13	What did he say Mr. Connolly had said?
14	A Well, all he said was what Bernie had said, Bernie
15	Maas had said, and that is that he had gotten a call from Joe
16	Connolly and he had said something about that he had some
17	news and that we had better stop trading.
18	Q You had better stop trading?
19	A Yes.
20	Q Do you know Mr. Lee what the market price of Geon
21	stock was when Mr. Connolly called?
22	A The original call? The call to Bernie Maas?
23	Q Yes.
24	A No, I do not know.

You do not know. What is Mr. Maas' title at the

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A He's a vice president in the market development divison.

- Q How long has he held that position?
- A Under a year I'd say. Something under a year.
 - Q Would you say it was six months?
 - A No, I'd say it was longer than that.
 - Q What was his title and job before that?
- A He previously was the vice president in the Securities division.
 - Q Did he have a title?
 - A Vice president.
 - Q Just vice president?
 - A Of the securities division. Right.
 - Q What would be his responsibilities?
- A Well, his responsibilities were, prior to the time that --

MR. TIMMENY: Your Honor, if counsel wants to make a proffer as to why he is going into this line of questioning, with Maas, I think we can cut it off about Mr. Maas. I mean, I think it is reasonable to call Mr. Maas as opposed to --

THE COURT: Well, we have gone this far. I don't think he will go any further, but he wants to know -- you can tell us in a general way if you know what his duties are.

THE WITNESS: Were.

THE COURT: Were.

THE WITNESS: Okay. He, prior to the point of his departure, was primarily working on special projects relating to listing.

THE COURT: These are new listings, or --

THE WITNESS: Just new listings and general listings standards and special type of standard types of questions. Prior to that he was in charge of the securities division a number of years ago, a number of years ago, but there had been some rearrangement of our organization, probably 3, 4 years ago.

BY MR. STRUM:

Q Mr. Lee, when you were talking to Mr. Connolly and Mr. Friedman on Friday, February 22, did you praise them, did you praise Geon?

A No.

Q You didn't say that they had taken prompt action and you were pleased?

A No.

Q Did you say anything substantially the same as that?

A NO.

Q It is your testimony that you criticized them; is that correct, sir?

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Lee-cross

A At the end of the conversation, at least I criticized Bloom for not speaking the entire story to Gromet.

Q Did counsel, Mr. Friedman or Mr. Connolly, say anything about arbitrageurs during that conversation?

A Yes.

Q Tell me what they said, or one of them?

A One of them said they felt that the reasons for the sharp decline on the heavy volume was that the arbitrageurs, some of them had probably heard about the board meeting the previous evening and that when there was no announcement coming out on Friday, anything about the Burmah merger, that they probably felt it just didn't look good any more and they got scared, and that is their attribution for the selling activity.

Q Was there a discussion about calls from arbitrageurs on Friday?

A I'm not sure. There may have been. I know that it was discussed at the Monday morning meeting. I am not sure as far as during our conversation whether it was discussed.

Q Wasn't it said that since no one was taking calls on Friday maybe the arbitrageurs got nervous because nobody would take their calls?

A No, I --

MR. TIMMENY: Objection, your Honor.

Lee-cross

2	THE COURT: All right, he has answered it.
3	Q Mr. Lee, you attended a meeting at the American
4	Stock Exchange with representatives of Geon on Monday morning
5	February 25?
6	A Correct.
7	Q Would you tell me what happened at that meeting?
8	Who said what?
9	MR. TIMMENY: Your Honor, I didn't go into this

meeting --

THE COURT: I know you didn't go into it. He is making him his own witness, but I don't know why he can't ask him if he was there what happened

Go ahead.

THE WITNESS: Okay. The meeting started --

MR. TIMMENY: Your Honor, can I suggest in the interest of time, we are going to put on another witness and go into the meeting again in some detail, and it might save time.

THE COURT: Oh, no, he is here. I hope briefly. We have heard quite a little about this 25th meeting, but, go ahead.

THE WITNESS: The first thing that happened is the representative of Geon distributed copies of the proposed press release which discussed the preliminary results for the

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fiscal year ended December 31, 1973.

THE COURT: Bloom was there? Do you know Bloom?

THE WITNESS: Yes, Bloom was there.

THE COURT: And some lawyers?

THE WITNESS: Connolly was there, Friedman was there, Korman was there.

THE COURT: All right.

And they showed you this press release, and what happened then?

THE WITNESS: Well, we looked it over and we dis-

THE COURT: "We" being you and Gromet?

THE WITNESS: Well, somebody at the meeting. It wasn't myself, I did not have a major role at the meeting.

THE COURT: But you were there?

THE WITNESS: I was there. Discussed the reasons for the decline in the earnings, and they talked in some detail about possible mistransposition of some numbers, some double accounting, and again the details I don't remember, but there was some detailed discussions about the earnings results.

Then there was some statement by someone about the fact that Mr. Barbanell had mentioned to Royce or Boesky about the board meeting.

Q Who mentioned that, sir?

A It was one of the attorneys, I think it was Mr. Friedman.

Q Mr. Friedman?

A I think so, but I am not absolutely certain.

Then we went on, and Mr. Bloom discussed the conversation with Randy Gromet and Bloom's memory of the conversation was, well, Randy just called and said, do you have any announcements to make? Then Randy took sharp exceptions to that and said, well now, wait a minute, then Randy went through a couple of the questions specifically that he asked Mr. Bloom, and Mr. Bloom said, yes, I guess -- it's hard to remember, but yes, maybe you did ask those questions.

- Q Did Mr. Korman comment on that exchange?
- A Not to my memory.
- Q You didn't hear him?
- A Not to my memory.
- Q Could you continue?

A In that section of the meeting, in that time frame of the meeting, talking with Mr. Bloom about the conversation with Randy, we generally discussed the fact that, you know, the Exchange should have been notified prior to the opening at any event, and that, you know, it was a crazy way to decide if you have a market problem after you see the stock

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THE WITNESS: The Friday morning. And there was some recognition of the names, but, you know, like a bank had sold them and said, yes, they have held it for a long time and maybe they are getting edgy, but that was the only

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Q Please.

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THE COURT: Go ahead.

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Then the final part of the meeting was suggesting some modifications of the proposed press release that was to

be put out, and the major modifications was that we felt that there should be some disclosure about the unresponsiveness of the company to the Exchange's question the previous -- no, the Friday morning -- and that was the major revision.

The request for the continued trading halt and the fact that the company did not answer initially the Exchange's inquiries.

THE COURT: You wanted to be in a position where the SEC couldn't tag you, didn't you? You wanted them to tag Geon?

THE WITNESS: I didn't want to go into motivation, it was the truth. And the fact is we wanted the facts to stand by themselves.

THE COURT: All right.

- Q Isn't it a fact that Geon requested a continuation of the halt, Mr. Lee?
 - A That's correct.
- Q It was Geon, not the Exchange that first made that statement?
- A Well, I can't tell you where it imitially came from because I honestly don't remember. Ultimately there was an agreement. Where the idea for it originated I don't remember. But there was definitely agreement.
 - Q Was any suggestion made by the Geon people that the

Lee-cross

American Stock Exchange investigate the arbitrageurs who had been making a lot of calls to Geon?

A Well, it was part of the conversation. I don't remember them saying, go out and investigate the arbitrageurs. I remember, you know, as part of the conversation saying we are going to investigate the arbitrageurs, and I know the company didn't object to that. But I don't remember the company saying, we want you to go out and investigate those arbitrageurs.

- Q You don't remember that?
- A Not that type of approach, no.
- Q Do you recall anybody representing the American Stock Exchange saying don't worry about that, we discipline our own members?
 - A I don't remember that.
- Q Mr. Lee, you mentioned some conversation about not waiting till the stock drops three points before you take some action.

Did Mr. Connolly say at that meeting that he had called the American Stock Exchange at 10 or 11 when the price was 13 and seven eighths? Did he say that?

- A I do not remember a specific time, no.
- Q You don't recall Mr. --
- A Or a price. I don't remember anything at the meeting

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	1	camcg 59 Lee-cross	
	2	pinpointing a time or a price. Just the fact that Mr. Connol	ly
	3	did call Mr. Maas.	
	4	MR. STRUM: I have no further questions, your Honor.	
	5	MR. GORDON: Your Honor, I have one question, if I	
	6	may.	
	7	THE COURT: All right.	
xxx	8	CROSS-EXAMINATION	
	9	BY MR. GORDON:	
	10	Q Mr. Lee, do you know what the total volume was on	
	11	the American Stock Exchange on the 22nd before trading was	
	12	suspended?	
	13	A The volume in that individual stock?	
	14	Q In Geon, yes.	
	15	A Do I know it now?	
	16	Q Yes.	
	17	A It was about 45, 46 thousand, if my memory serves	
	18	me correctly.	
	19	MR. GORDON: Thank you, sir.	
	20	No further questions, your Honor.	
	21	THE COURT: Are there any other questions?	
	22	MR. TIMMENY: No, no further questions, your Honor.	
	23	THE COURT: Thank you very much, you are excused, Mr.	
	24	Lee?	
)	25	(Witness excused.)	